

VERBATIM ¹RECORD OF TRIAL ²

(and accompanying papers)

of

MANNING, Bradley E.

(Name: Last, First, Middle Initial)

Headquarters and
Headquarters Company,
United States Army Garrison

(Unit/Command Name)

[REDACTED]

(Social Security Number)

U.S. Army

(Branch of Service)

PFC/E-3

(Rank)

Fort Myer, VA 22211

(Station or Ship)

By

GENERALCOURT-MARTIAL

Convened by

Commander

(Title of Convening Authority)

UNITED STATES ARMY MILITARY DISTRICT OF WASHINGTON

(Unit/Command of Convening Authority)

Tried at

Fort Meade, MD

(Place or Places of Trial)

on

see below

(Date or Dates of Trial)

Date or Dates of Trial:

23 February 2012, 15-16 March 2012, 24-26 April 2012, 6-8 June 2012, 25 June 2012, 16-19 July 2012, 28-30 August 2012, 2 October 2012, 12 October 2012, 17-18 October 2012, 7-8 November 2012, 27 November - 2 December 2012, 5-7 December 2012, 10-11 December 2012, 8-9 January 2013, 16 January 2013, 26 February - 1 March 2013, 8 March 2013, 10 April 2013, 7-8 May 2013, 21 May 2013, 3-5 June 2013, 10-12 June 2013, 17-18 June 2013, 25-28 June 2013, 1-2 July 2013, 8-10 July 2013, 15 July 2013, 18-19 July 2013, 25-26 July 2013, 28 July - 2 August 2013, 5-9 August 2013, 12-14 August 2013, 16 August 2013, and 19-21 August 2013.

¹ Insert "verbatim" or "summarized" as appropriate. (This form will be used by the Army and Navy for verbatim records of trial only.)

² See inside back cover for instructions as to preparation and arrangement.

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3 Q.

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5 A.

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11 Q.

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13 A.

14 Q.

15 A.

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19 Q.

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21 A.

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1 Q. Thank you, sir. Sir, I'm going to look over my notes real
2 quickly.

3 A. Certainly.

4 ADC[MAJ HURLEY]: Sir, those are all the questions I have for
5 you.

6 MJ: Redirect?

7 ATC[CPT MORROW]: No, Your Honor.

8 MJ: Major General McKenzie, I just have a couple of questions.

9 **EXAMINATION BY THE COURT-MARTIAL**

10 **Questions by the military judge:**

11 Q. If these
12
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14 A.
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1 Q. Why

2 A.

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9 Q.

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11 A.

12 Q.

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14 A.

15 Q.

16 A.

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4 Q.

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6 A.

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12 MJ:

13 ATC[CPT MORROW]:

14 ADC[MAJ HURLEY]:

15 MJ: Proceed.

16

RECROSS EXAMINATION

17 Questions by the assistant defense counsel [MAJ HURLEY]:

18 Q.

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20 A.

21 Q.

22 A.

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1 Q.

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3 A. That is my assessment as--speaking as the J5.

4 ADC[MAJ HURLEY]: Thank you, sir.

5 MJ: Temporary or permanent excusal?

6 ATC[CPT MORROW]: Temporary, Your Honor.

7 [The witness was duly warned, temporarily excused, and withdrew from
8 the courtroom.]

9 MJ: All right. Government?

10 TC[MAJ FEIN]: The United States does not intend to call any
11 further witnesses, so the government rests its sentencing case, Your
12 Honor.

13 MJ: All right. So, we have nothing else to do, today, other
14 than the administrative stuff where we'll be looking at exhibits that
15 we discussed earlier, is that correct?

16 TC[MAJ FEIN]: Yes, ma'am.

17 ATC[CPT MORROW]: One moment, Your Honor.

18 TC[MAJ FEIN]: Ma'am, the only other issue, probably just for
19 the record, is we need notice from the defense on the damage
20 assessments at some point just so we can set up a facility. And
21 we'll work with the defense on it.

22 MJ: What type of notice do you need?

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1 TC[MAJ FEIN]: Well, ma'am, there's two damage assessments in
2 question. Whether they intend to use them so we can have them ready
3 to go to be marked. And then the second part is one of the damage
4 assessments is

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7 MJ: All right. Defense?

8 ADC[MAJ HURLEY]: Ma'am, we'll show up to the 802 on Monday
9 morning with our intent whether or not we want to use those damage
10 assessments.

11 MJ: Is that sufficient for the government?

12 TC[MAJ FEIN]: It is, ma'am. The only--the government is fine
13 with whatever time the defense wants to use, it's just we need time,
14 too, in order to actually,

15

16 MJ: Actually, looking at--just--this does trigger a question.
17 I don't know if either side knows, yet, the sentencing arguments that
18 you're both going to have, are they going to be referencing any
19 classified material or are you going to have any closed portion of
20 them?

21 CDC[MR.COOMBS]: The defense will not, Your Honor.

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1 TC[MAJ FEIN]: Ma'am, at the present time, the United States
2 intends to have a solely open session. If, at most, a collateral
3 document similar to what happened in the merits phase

4 MJ: Okay. I'm just saying if there's some issue about--you
5 know, the only thing, at this point, then--if you what you're telling
6 me is accurate, is the

7

8 TC[MAJ FEIN]: Well, ma'am----

9 MJ: Or your preparation?

10 TC[MAJ FEIN]: It's preparation and then deliberation.

11 ATC[CPT MORROW]: Your Honor, in order--if the defense wants to
12 offer the damage assessment into evidence, they need to allow the
13 accused to look at them first. That's part of the reason for T-

14

15

16 MJ: Okay, because I've already taken judicial notice of them---

17 -

18 ATC[CPT MORROW]: Yeah, that----

19 MJ: ----so its not a question of admissibility----

20 ATC[CPT MORROW]: ----assuming----

21 MJ: ----it's just whether you intend----

22 ATC[CPT MORROW]: No, it's just a matter of offering----

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1 MJ: ----to use it, right?

2 TC[MAJ FEIN]: Yes, ma'am.

3 MJ: Okay.

4 TC[MAJ FEIN]: So it's the preparation piece and then the--if
5 it's offered--or if it's actually admitted, it is provided to the
6 Court. So it's a few--just-it's logistics only, is the issue, ma'am.

7 MJ: So, do both sides believe that, over the course of the
8 weekend, you can figure this out such that it's not going to delay
9 proceedings next week?

10 CDC[MR.COOMBS]: That is correct, Your Honor.

11 ADC[MAJ HURLEY]: Yes, ma'am.

12 TC[MAJ FEIN]: Yes, ma'am.

13 MJ: Okay. Is there anything else we need to address now?

14 CDC[MR.COOMBS]: No, Your Honor.

15 TC[MAJ FEIN]: No, ma'am. For the 802, ma'am, the United States
16 has requested if we could provide Chief Ford and paralegals into that
17 802 in order to talk about the administration of the record.

18 MJ: Is it easier to do it in the courtroom where the exhibits
19 are, or is it--do you want to go into the deliberation room?

20 TC[MAJ FEIN]: Probably better in the deliberation room, ma'am,
21 because we're going to layout the classified exhibits and show it on

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1 the table. Probably everyone standing around the table would be
2 easier.

3 MJ: All right. How long of a recess do you need to do that?

4 TC[MAJ FEIN]: Probably 20 minutes, ma'am, so we can have it all
5 set up ahead of time.

6 MJ: All right. Court is in recess for 20 minutes.

7 [The court-martial recessed at 1608, 9 August 2013.]

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1 [The court-martial was called to order at 0940, 12 August 2013.]

2 MJ: Court is called to order.

3 Major Fein, please account for the parties.

4 TC[MAJ FEIN]: Yes, ma'am. All parties when the court last
5 recessed are again present with the following exception: Captain
6 Overgaard is absent, Captain von Elten is present. This is an open
7 session, unclassified in nature and the court security officer
8 completed his open hearing checklist and it will be filed with the
9 Post-Trial Appellate Papers.

10 Additionally, Your Honor, as of 0924 this morning there are
11 fifteen members of the media at the Media Operations Center, one
12 stenographer. There is no media in the courtroom, twenty nine
13 spectators in the courtroom and currently there are no spectators in
14 the overflow trailers, although it remains available.

15 MJ: All right. Thank you. Before we begin today the Court has
16 been advised that a video has been made as part of the prosecution's
17 closing argument on the merits -- as part of the prosecution's
18 closing argument on the merits. Once again, I remind you that under
19 R.C.M. 806(c) photography and broadcasting of the court proceedings
20 is prohibited. This includes photography, broadcasting, video and
21 audio recording, the taking of photographs and radio and television
22 broadcasts of the proceedings from the courtroom. The video was made
23 from the overflow trailer. This overflow trailer is an extension of

1 the courtroom. So the same rules apply as the violation of the
2 Court's rules came from the overflow trailer additional security
3 measures will be imposed for the overflow trailer only to ensure that
4 additional violations of the Court's rules do not occur. The
5 overwhelming majority of the media and spectators in this case have
6 behaved with the decorum befitting of a courtroom and with a respect
7 for the Court's rules. I thank you.

8 Government, what is the status of your case?

9 TC[MAJ FEIN]: Your Honor, on Friday the government rested its
10 sentencing case.

11 MJ: And that was during the closing ----

12 TC[MAJ FEIN]: It was ----

13 MJ: ---- portion.

14 TC[MAJ FEIN]: ---- Your Honor.

15 MJ: We have two motions that we have scheduled for oral
16 argument this morning. The first is judicial notice, however, the
17 Court received an e-mail over the weekend that the government did not
18 object to the defense motion for judicial notice of Appellate Exhibit
19 651; is that correct, Major Fein?

20 TC[MAJ FEIN]: Yes, ma'am. And that e-mail's been marked as
21 Appellate Exhibit 653.

22 MJ: So there's no additional need for oral argument with that
23 motion; is that correct?

1 ADC[CPT TOOMAN]: That's correct, Your Honor, and the defense
2 has changed out the attachments to that Appellate Exhibit so the
3 comments aren't in there anymore.

4 MJ: All right. Right now it's as an Appellate Exhibit. You
5 want me to consider it as a Defense Exhibit; is that correct?

6 ADC[CPT TOOMAN]: Yes, ma'am.

7 MJ: Do you want to remark it either as a Defense Exhibit?
8 That's probably the easiest way to save trees or make an additional
9 copy?

10 ADC[CPT TOOMAN]: Okay. I have an additional copy here, ma'am.
11 I'll give it to the court reporter.

12 MJ: Okay. And then they can go ahead and admit that now.

13 **[There was a pause while the Defense Exhibits were admitted into**
14 **evidence.]**

15 Are the exhibits ready for my initials?

16 ADC[CPT TOOMAN]: I think he's still working on that.

17 MJ: Okay. Thank you.

18 All right. This will be Defense Exhibit India-India-India
19 and Defense Exhibit Juliette-Juliette-Juliette and the Court will
20 take judicial notice of the existence of both of these.

21 CDC[MR. COOMBS]: Your Honor, based upon that the defense
22 would no longer call Colonel Larry.

1 MJ: We will have Colonel Larry then removed from the defense
2 witness list, and just for the record the articles are entitled,
3 "Exclusive: Taliban makes IEDs Deadlier." Dated September 15, 2009,
4 Washington Times, and "National Defense: Pentagon Still Playing
5 Catch Up with Bomb Makers," dated July 2011.

6 Major Fein, can you please account for the remainder of the
7 Appellate Exhibits?

8 TC[MAJ FEIN]: Yes, ma'am. Your Honor, Appellate Exhibit 652 is
9 the defense's response to Appellate Exhibit 645, the government's
10 motion for relief for concerning health records dated 10 August 2013.
11 Your Honor, Appellate Exhibit 654 Alpha and Bravo is the government's
12 response to the defense's objections under R.C.M. 1001(b)(4),
13 referencing the testimony of Major General McKenzie and Rear Admiral
14 Donegan. The -- similar to the previous filings the government
15 incorporated the defense's objections into this filing. Alpha's the
16 classified version. Bravo's the unclassified redacted version.

17 MJ: All right. Thank you. And for the record, counsel and I
18 met very briefly this morning for an R.C.M. 802 conference. That's a
19 conference where I talk with counsel about scheduling issues and
20 other logistic issues that may arise in the case and basically what
21 we just went through is what we discussed during the R.C.M. 802
22 conference. Next on the agenda is the argument over the government's
23 motion for -- to receive the long form of the R.C.M. 706 Board. Now

1 there were four things that the government wanted. Major Fein, are
2 all four of those issues still ripe?

3 TC[MAJ FEIN]: Ma'am, some of them still are, unfortunately.
4 First, Your Honor, the United States requested specific disclosures
5 and any material Dr. Moulton relied upon. We have ----

6 MJ: What don't you have?

7 TC[MAJ FEIN]: I'm sorry, ma'am?

8 MJ: What don't you have?

9 TC[MAJ FEIN]: Yes, ma'am. Going off the list on page 3 of the
10 government's motion, Appellate Exhibit 645, we received from the
11 Defense Echo records from psych testing during the time of Joint
12 Regional Confinement Facility. We've not had a chance to verify that
13 with Captain, or excuse me, Commander Moulton whether that's complete
14 or not. Records and notes from any mitigation expert, interviews
15 with family and friends, similarly we have received that from the
16 defense, but we have not had an opportunity to confirm with Commander
17 Moulton whether that is everything he has in that category ----

18 MJ: Well let's -- before we get there, what in A through I have
19 you not have received from the defense?

20 TC[MAJ FEIN]: H, ma'am, we don't have any notes from Commander
21 Moulton.

22 MJ: All right. Mr. Coombs, what's the status of the notes?

1 CDC[MR. COOMBS]: I don't know. I haven't received the notes
2 either. I talked to Commander Moulton, indicated that, you know,
3 whatever notes that he was using to form the basis of his opinion he
4 needs to provide to the government. So the defense will do that.

5 MJ: Is he bringing his entire file?

6 CDC[MR. COOMBS]: I believe so, Your Honor.

7 TC[MAJ FEIN]: Ma'am, we've asked him to bring everything
8 possible, that way there's no delay, based ----

9 MJ: When's he ----

10 TC[MAJ FEIN]: ---- on this litigation.

11 MJ: When is he coming?

12 TC[MAJ FEIN]: I think tomorrow night, ma'am

13 MJ: Is he supposed to be testifying on Wednesday; is that
14 correct?

15 TC[MAJ FEIN]: Yes, ma'am.

16 CDC[MR. COOMBS]: Yes, ma'am.

17 TC[MAJ FEIN]: And we intend, ma'am, this afternoon to call him
18 again to say can you send whatever is missing from this list ahead of
19 time so there's no delay.

20 MJ: All right. Once again, I left Thursday and Friday open for
21 a reason. So we'll do what we can to make this work and make sure
22 everybody has the appropriate documentation.

23 TC[MAJ FEIN]: Yes, ma'am.

1 MJ: Okay. So we have some issues, but they aren't at this
2 point ripe for the Court's consideration?

3 TC[MAJ FEIN]: That's correct, ma'am.

4 MJ: Okay. And what about the long form, is what's at issue
5 today?

6 TC[MAJ FEIN]: Yes, ma'am, it is. Also, ma'am, finally defense
7 sent an e-mail, we just wanted to confirm that there's no 914 issues
8 or 914 material included in e-mails also, because the defense has
9 contested whether they consider any information in e-mails even part
10 of R.C.M. 914, and the last e-mail didn't specifically state that.

11 MJ: All right. Mr. Coombs, assuming, without arguing, that e-
12 mails fall within the *Jencks* material under R.C.M. 914. Have you had
13 a chance to review your records and your e-mails between the defense
14 team and Dr. Moulton?

15 CDC[MR. COOMBS]: Yes, I have, Your Honor.

16 MJ: Do any of them qualify as statements under R.C.M. 914?

17 CDC[MR. COOMBS]: No, Your Honor.

18 MJ: All right.

19 TC[MAJ FEIN]: It's just that sentencing.

20 MJ: Government, it's your motion, are you ready to argue?

21 TC[MAJ FEIN]: Yes, ma'am. Permission to brief from the desk.

22 MJ: That's fine.

1 TC[MAJ FEIN]: Ultimately the United States contends that the
2 defense has put Private First Class Manning's mental condition at
3 issue under M.R.E. 302. The rule specifically states that if the
4 defense alleges a mental condition, it doesn't say necessarily for an
5 insanity defense on the merits. Specifically, even M.R.E. 302, the
6 new one, especially says, "Any derivative evidence obtained through
7 or use of such a statement from being received into evidence against
8 the accused on the issue of guilt or innocence or during sentencing
9 proceedings. It is clear here, Your Honor, the defense intends to
10 use alleged mental condition of PFC Manning in their sentencing case
11 and United States requests under *Clark* and R.C.M., or excuse me,
12 M.R.E. 302, that the long form report less PFC Manning's statements
13 that might be captured in the report be disclosed to the prosecution
14 so the prosecution can properly prepare its case to cross-examine
15 Commander Moulton and potentially a rebuttal case.

16 MJ: Is there any case law that the government is aware of that
17 deals with, in any shape or form, the release of the long form 706
18 Board where evidence of mental health has been raised during
19 sentencing, extenuation of mitigation?

20 TC[MAJ FEIN]: Ma'am, the United States didn't find necessarily
21 a specific case that where mental health was only raised for
22 sentencing and only sentencing, but it is clear from multiple cases
23 including *Clark* itself that Appellate Courts have stated that the

1 issue is whether the defense raises a mental condition existing of
2 the accused at any point in the trial. So although there's not a
3 case directly on point for sentencing alone, the defense has alleged
4 through the exact proffer for Captain, or excuse me, Commander
5 Moulton that they intend to elicit evidence based off of PFC
6 Manning's mental condition.

7 MJ: Now the proffer that you have in your motion, where did
8 that come from?

9 TC[MAJ FEIN]: Ma'am, that came from the defense's witness list,
10 exhibit -- Appellate Exhibit 344. It's verbatim. Defense used terms
11 such as, "Regressed stages of development," "Narcissistic personality
12 traits," I mean, they're using behavioral health specific terms
13 putting PFC Manning's mental condition at issue. So the government's
14 contending that the rules under M.R.E. 302, *Clark*, and 513 allow for
15 the government to be able to, since we don't have access to the
16 accused, that we have any documentation referencing his mental
17 health. Less the statements, because those are specifically
18 protected when it comes to the long form of the 706 available. So
19 the government's forensic psychiatrist expert if we so chose to use
20 him -- he or she will be able to access that and the government will
21 all be able to put on rebuttal case.

22 MJ: M.R.E. 513 would apply to statements made to Dr. Moulton,
23 but that wouldn't have anything to do with the 706 Board, would it?

1 TC[MAJ FEIN]: No, ma'am. Well, other than 302 cross references
2 it, ma'am, but, no, the 706 we feel ----

3 MJ: But 30 -- M.R.E. 302 ----

4 TC[MAJ FEIN]: Yes, ma'am.

5 MJ: ---- would be the guiding rule?

6 TC[MAJ FEIN]: Yes, ma'am. And *Clark*, that is the most recent
7 case to interpret that.

8 MJ: What is the language in -- *Clark* is not talking about the
9 sentencing, they're talking about the merits. What's the language
10 that you are relying on in *Clark*?

11 TC[MAJ FEIN]: Yes, ma'am. One moment please.

12 **[There was a pause while the trial counsel conferred at the counsel**
13 **table.]**

14 Ma'am, the language that the United States is relying on --
15 the actual citation is I guess it's page 200 of the reporter. But
16 it's -- M.R.E. 302 is specifically drafted to allow the defense
17 control and an accused statements to Sanity Board would be released
18 to the prosecutors and presented to court martial. "If the defense
19 does not allege insanity at a court martial or does so only through
20 the lay testimony the Sanity Board will not be provided to the
21 prosecution, but if the defense offers expert testimony concerning
22 the mental condition of the accused," in quote citing 302, "The
23 military judge shall compel the defense to release to the prosecution

1 the full contents and other statements made by the accused to the
2 Sanity Board." Later on, Your Honor, "*Clark* court holds once the
3 defense offers expert testimony concerning accused's mental condition
4 302 Charlie allows the military judge to provide the government with
5 the Sanity Board report after redacting the accused's statements.
6 And that's exactly what happened here, Your Honor. The defense in
7 *Clark* put the mental condition of the accused at issue, not -- but
8 not using any doctors from the 706 and purposely did not show the 706
9 report to their mental health provider. And so the Court, the
10 Appellate Court in *Clark* held that the statements themselves within
11 the long form report should not be disclosed to the government, but
12 the government does get access to the long form report.

13 Seems directly on point in this case.

14 MJ: What is the government's position with respect to the
15 defense's contention that this only applies on the merits because
16 this is a merits case too.

17 TC[MAJ FEIN]: Ma'am, there's no case law that supports that
18 proposition. The rule 302, as I stated a minute ago, is pretty
19 clear, just at the beginning. M.R.E. 302, the general rule, it
20 doesn't delineate between a merits, insanity defense or not. The
21 defense is relying on the analysis to interpret that but actually it
22 was the history of 302. The rule itself on its face doesn't
23 distinguish the difference between an issue of guilt, which would be

1 insanity, or sentencing proceedings. 302 itself is very clear.

2 Either one of those with or separating them.

3 MJ: Does the government believe M.R.E. 302 -- it's a privilege
4 concerning mental examination of the accused? Is this a privilege
5 for the long form and the statements or just the statements.

6 TC[MAJ FEIN]: I'm sorry, could you repeat that question?

7 MJ: Is this a privilege to prevent release of the long form of
8 the R.C.M. 706 Board or just the statements or both?

9 TC[MAJ FEIN]: Well, ma'am, ultimately the privilege of the
10 statements, because it's a privilege and it allows an accused to get
11 mental health and be able to feel free to get that support which
12 should be protected but ultimately 706 read with 302 does incorporate
13 the actual report itself and distinguishes between the short and long
14 form. But the key here, Your Honor, is it's the defense is the
15 gatekeeper and if they -- if the defense raises a mental health
16 condition, they open the door and it's their decision whether to do
17 that or not. And that's where 302(b)(1), the exception says, "There
18 is no privilege when the accused person introduces into evidence such
19 statements or derivative evidence." It doesn't say on the merits.
20 It doesn't say on sentencing. It says on evidence. It doesn't
21 distinguish.

22 MJ: All right. Thank you.

23 TC[MAJ FEIN]: Yes, ma'am.

1 MJ: Defense?

2 CDC[MR. COOMBS]: Yes, Your Honor. Your Honor, first, I think
3 it's helpful to look at the overall purpose of the M.R.E. 302 and
4 706. Especially when you're considering them together. 302 is
5 designed to essentially put the government on the equal footing with
6 the defense when the defense offers any sort of defense that would go
7 towards a *mens rea* element in the merits, that's how the defense
8 looks at 302 and ----

9 MJ: Then why doesn't the rule say that?

10 CDC[MR. COOMBS]: Well, when you look at the discussion, I mean,
11 it's just the drafters within the rule didn't spell that out, but
12 when you look at the discussion it's clear that that's what the rule
13 was designed to do. It was designed to balance the competing
14 interests between an accused being able to put up a defense, an
15 insanity defense, that went towards a *mens rea* element. And you
16 could put -- it wouldn't have to be insanity, it could be anything
17 that attacks the *mens rea* element on the merits. Once the defense
18 does that, then the government should be entitled to a long form
19 report at the very least and potentially the ones with the statements
20 as well, in order to be put on equal footing.

21 MJ: Why wouldn't that same proposition apply in sentencing?

22 CDC[MR. COOMBS]: It would if the -- well, two things. If the
23 expert for the defense was considering the 706 report in sentencing

1 and that was the primary basis for his or her opinion, then there
2 would be an argument for that. Although, still even in that instance
3 the rule seems to be more interested in the merits portion and the
4 underlying basis for that is the government has the burden of proof
5 in the merits and if the defense is offering something that would
6 attack an element of one of the charges then the government really
7 should be put on equal footing to have access to that. That same
8 argument would not apply in sentencing.

9 MJ: Why not?

10 CDC[MR. COOMBS]: Because in sentencing you're dealing with --
11 and this is how it's being offered in this instance not as a mental
12 health defense and not the in any way to lessen PFC Manning's
13 decisions on why he did what he did, but instead to explain the
14 context, the circumstances surrounding it. So doc -- Captain, or
15 excuse me, Commander Moulton will talk about the stressors that PFC
16 Manning was under during the deployment.

17 MJ: Let me stop you there. Do you agree with -- the government
18 proffer of this testimony in their motion? Do you agree with that
19 proffer, that that's what Dr. Moulton is going to testify about?

20 CDC[MR. COOMBS]: Yes, Your Honor.

21 MJ: Do you agree -- do believe that that is evidence concerning
22 a mental condition of PFC Manning, one or more?

1 CDC[MR. COOMBS]: Yes, Your Honor. And when you look at --
2 again, if you look at 302 and 706 and you consider them together, the
3 706 report an accused can be forced to take -- undergo a 706 Board.
4 So if the government's theory were correct that any time you offer
5 any sort of evidence in mitigation or extenuation, and it could be
6 something as simple as somebody having an eating disorder or
7 alcoholism or a gambling addiction, anything along that lines, if
8 there was a 706 report you offer something like that in sentencing
9 that is totally unrelated to whether or not the individual has the
10 capacity to stand trial. Now the government gets access to the 706
11 report, and it's, you know, the long form report. Any time you offer
12 something like that in sentencing. That can't be the case when you
13 consider an accused, as I said, can be forced to undergo 706 Board by
14 the military judge, by the government, by the investigating officer,
15 and then you would be in a position where if you were forced to
16 undergo a 706 Board, and this is why the privilege applies to
17 everything because the results in the board and the statements are
18 based upon the interaction with the accused. So the ultimate
19 opinions by the board members, their testing, is based upon the
20 responses they get from the accused. So an accused now is forced to
21 cooperate with the 706 Board and then if he offers anything or she
22 offers anything in sentencing, again, totally unrelated to capacity

1 issue, now under the government's argument you would have full access
2 to long form 706 Board.

3 MJ: Well following that with the long form 706 Board is
4 addressing the same issues that the defense is bringing up in
5 extenuation of mitigation.

6 CDC[MR. COOMBS]: There would be a better tie in argument if, in
7 fact, the defense -- well, two -- in two instances. If the defense's
8 expert was relying upon the 706 Board, then you have perhaps a
9 fairness argument. The government has their expert in court today
10 watching the proceedings. If my expert was, in fact, relying upon
11 the 706 Board and that was a major factor in his opinion, well, you
12 would have a fairness argument that their expert should be entitled
13 to the same information. And that's really what goes towards the
14 government's first request of, we want the entire basis of your
15 expert's opinion. They're going to have it. So they are placed at
16 equal footing. So this is not an issue where the government is
17 operating under a deficiency. Second, the -- in sentencing, as in
18 this case, the evidence of the gender identity issues, the evidence
19 of the stressors that he was undergoing, is being offered in
20 mitigation and extenuation to explain the circumstances surrounding
21 the offense. It's not being offered to lessen the responsibility,
22 not being offered, obviously ----

23 MJ: Well if it's in extenuation or mitigation it kind of is.

1 CDC[MR. COOMBS]: It's mostly to explain to the Court what was
2 going on, and to the extent that that is something that the Court
3 takes into account and maybe lessens the punishment, yes; but it is
4 to provide context and circumstances as to what was going on during
5 that time period. But it's not in a way to take away responsibility
6 for the offense and that's really what 302 and 706, when you read
7 them together, is designed to address and that's why the rule
8 specifically states and even in *Harris* the, no excuse me, not *Harris*,
9 but in *Clark*, the case the government cited, they referenced the fact
10 that if the defense does not raise an insanity defense the government
11 does not get access to the report.

12 MJ: Where does it say that?

13 CDC[MR. COOMBS]: It's within the passage of what they cite, the
14 government cited as well. I'll find that in a second, Your Honor.

15 MJ: If you're looking at Page 7, at least of what I have, are
16 you're talking about the line, "Once the defense offers expert
17 testimony concerning an accused's mental condition M.R.E. 302 allows
18 the military judge to provide the government with Sanity Board after
19 redacting the accused's statements?"

20 CDC[MR. COOMBS]: No, Your Honor. Hold on one second and I'll
21 find the quote. I believe -- and I'll find the exact passage of
22 where it is in the *Clark* opinion, but 302(c), which the *Clark* opinion
23 cited, it states, "If the accused fails to present an insanity

1 defense or does so only through lay testimony, for example, a trial
2 counsel will not receive access to the report." That passage within
3 the 302(c) discussion, the analysis, if -- you can't read that and
4 have that reconcile with the idea that anytime you put any mental
5 health information that they get access to the long form report.

6 MJ: Why not?

7 CDC[MR. COOMBS]: Because the -- you wouldn't say, "If the
8 defense doesn't offer an insanity defense in this case or does so
9 only through lay testimony the government doesn't get access to the
10 report." There would be no reason to state that. Instead, what you
11 would say is, "If the accused doesn't offer any sort of mental health
12 information or testimony the government will not get access to it."
13 Again, the -- I think if -- well defense believes if you follow the
14 government's reading of the rule then any time a 706 Board is done
15 the defense would know that if we offer any sort of mental health
16 testimony, whether or not that's -- I don't believe the government is
17 limiting it to just expert testimony, but if somebody gets on the
18 stand and says, "You know what, I saw -- you know ----

19 MJ: I thought there was a specific exception for lay testimony?

20 CDC[MR. COOMBS]: In this instance the exception is both lay
21 testimony and for insanity defense, but under the government's
22 argument if you offer any sort of mental health, if you put that in
23 issue during sentencing they get access to the full report.

1 MJ: Well R.C.M. 70 -- the rule itself says, "It's expert
2 testimony."

3 CDC[MR. COOMBS]: Correct, Your Honor. But the government's
4 argument is not limited to that, and the rule itself says, or at
5 least the discussion says, "If you fail to present an insanity
6 defense they don't get access to it." So the defense believes when
7 you look at it in its entirety the government's not put at a
8 deficiency. Our expert's not considering the report and hasn't
9 considered the report. There is no reason for the government to get
10 access to the full report. It is a fishing expedition to get access
11 to the full report. What we're offering in sentencing is not an
12 attack on any *mens rea* element of the offense and there is no case
13 that would support the government's position that they should have
14 access in sentencing.

15 MJ: Is the defense aware of any case which addresses this rule
16 and the giving of a long form in a sentencing case?

17 CDC[MR. COOMBS]: There -- I believe, Your Honor, there is a
18 unreported Air Force case that talked about giving a long report in
19 sentencing. I don't know the facts of the case, but I believe ----

20 MJ: Do you know the name of the case?

21 CDC[MR. COOMBS]: I can get that, Your Honor. I bel ----

22 MJ: Thank you. Well, do you know of any case where a military
23 judge has been reversed for giving the -- for requiring the defense

1 to give the long form for the government when they introduce mental
2 health evidence in sentencing?

3 CDC[MR. COOMBS]: No, Your Honor.

4 MJ: Okay. If you have that case, the Court would appreciate
5 the name of it.

6 CDC[MR. COOMBS]: Yes, Your Honor, I'll find the case.

7 MJ: Thank you. All right. The Court's going to take this
8 issue under advisement. Understanding that the witness is coming
9 tomorrow, this will be the first order of business for the Court. So
10 you'll have a ruling hopefully by the end of the day.

11 Is there anything else we need to address before we proceed
12 to the beginning of the defense case?

13 CDC[MR. COOMBS]: We may just need 10 minute recess to ensure
14 that the first witness is here. But other than that, nothing from
15 the defense, Your Honor.

16 TC[MAJ FEIN]: I'm sorry, ma'am. I didn't get a chance to tell
17 Mr. Coombs, he is here and ready to go.

18 MJ: All right. Do you want to take a 10 minute recess anyway
19 or are you ready to go?

20 CDC[MR. COOMBS]: Ready to go, Your Honor.

21 MJ: Let's go.

22 CDC[MR. COOMBS]: The defense calls Colonel David Miller.

1 COLONEL DAVID MILLER, U.S. Army, was recalled as a witness for the
2 defense, reminded of his previous oath, and testified as follows:

3 DIRECT EXAMINATION

4 Questions by the civilian defense counsel [MR. COOMBS]:

5 Q. Sir, I want to start off by asking you a few questions
6 about the brigade's guidance regarding selecting those members who
7 would or would not deploy?

8 A. Okay.

9 Q. Sir, approximately 60 days prior to the deployment your
10 unit conducted a SRC, a Special Reporting Code scrub; is that
11 correct?

12 A. Soldier's readiness, yeah.

13 Q. And can you explain for the Court what that is?

14 A. So the scrub actually is not a one-day event. It's
15 something that's done continuously. So not just for deployments, but
16 on a recurring basis. For example, my unit now at Fort Riley, units
17 required to do Soldier readiness reviews of their deployment
18 readiness status. So everything from your medical status, to your
19 DEERs being up to date, your -- all of those things are required to
20 be squared away and properly taken care of before you deploy are done
21 and there's a checklist that goes with that.

22 Q. And why would you do that 60 days out?

1 A. Well, 60 days -- 90 days, 60 days out you're looking at the
2 roster very hard to make sure you know who can and can't deploy. So
3 you've got an accurate read on what your deployable strength is going
4 to be and how many folks you're going to have with your rear
5 detachment.

6 Q. And what guidance did you give to your brigade regarding
7 selecting those members who would not deploy?

8 A. Well the first guidance is standard Army guidance, so let's
9 just start with the readiness checklist. And that says, "If a
10 Soldier's got a physical profile," for example, "And they can't wear
11 a body armor then on the first screening they're not deployable. If
12 they've got a medical condition that can't be treated in theater of
13 if they have some kind of medication," for example, "That couldn't be
14 administered underneath the conditions in the particular place you're
15 going, than that person may not be deployable." So the guidance I
16 gave is we would scrub our rosters very closely to ensure that we had
17 very accurate data down to the individual on who is and is not
18 deployable by those standards. And then there's a screening criteria
19 of based on where we're going, what we know we're going to do, even
20 though they don't meet that checklist who could deploy and perform
21 some kind function within the limits of their constraint is. And so
22 ----

23 Q. And ----

1 A. ---- we just wanted to make sure we had that as very, very,
2 accurate to make sure that we were taking all availables downrange
3 and for those who couldn't they were going to get the proper
4 attention for whatever the reason was that they were not deployed.

5 Q. What was your required strength level to deploy?

6 A. So there's not a required strength level. The goal is to
7 deploy, at that time, the goal was to deploy with 90 percent of
8 assigned strength.

9 Q. And do you recall if you have any units that were close to
10 not making that goal of 90 percent?

11 A. No, not really. The whole purpose of the scrub is to have
12 that read. So we were -- that's why I said it wasn't just a 60 days
13 out in looking, we've been loo -- we started looking at that -- you
14 look -- every month the Army -- every brig -- every unit in the Army
15 submits a unit status report. And on that unit status report, you
16 report every month of every year what your current non-deployable
17 are. So it's not an unknown thing for any unit. What you're looking
18 at closely is, how can you get that reduced. So for example,
19 Soldiers that are being separated from the Army for chapters, for
20 adverse actions, and that kind thing are on that non-deployable list.
21 One of goals to look at that list very closely and do what you can do
22 to expedite their separation from the Army before you deploy so the
23 rear detachment is not left with that task and those additional

1 folks. So we were looking at the goal all along, but I don't think
2 we were ever in a position where we were at a fear of not making our
3 90 percent.

4 Q. And as part of that scrub and looking at that, did you have
5 members of your brigade brief you on non-deployables?

6 A. Yeah, we met. I met with my Brigade [SIC] Commanders
7 initially, you know, several months out. Monthly we started looking
8 at it pretty close, and that came down within the last 60 days
9 probably looking at it, probably twice a month where I meet with my
10 Battalion Commanders and their Sergeant Majors and review their
11 rosters and ensure that they were tracking, you know, closely their
12 status and making the Commander's decisions on who they thought
13 should or shouldn't deploy and that we had the right read on how much
14 support we were going to need to get medical things taken care of
15 and/or the separations that I mentioned already.

16 Q. And you talked about trying to ensure that list was reduced
17 as quickly as possible before the deployment so you didn't have a
18 large rear detachment.

19 A. Yes, sir.

20 Q. Was there any pressure put on the unit to reduce the non-
21 deployable list?

22 A. Two things, sir. I didn't say that we do as quickly as
23 possible. I just said that we were managing all along. That's why

1 to refrain from being into a panic mode at the last days going out,
2 that's why you look at it all the time. So I wouldn't categorize it
3 as quickly. I would categorize it as efficiently as possible. But,
4 no, I didn't -- I wouldn't call it pressure. I would call it
5 responsible guidance from the command, Army wide, to do what we
6 should be doing, which is take every able Soldier downrange and be
7 good stewards of America's resources. In this particular case, the
8 most important resource which is our human Soldiers. So there the
9 intent is, take as many of the folks as you possibly can, but that
10 makes sense because that's what we do.

11 Q. Did your brigade S-2 section have a shortage of
12 intelligence analysts?

13 A. Yeah. Army wide and even now there's a general shortage of
14 intel officers and analysts.

15 Q. Simply though your brigade did you have a shortage of
16 junior intelligence analysts?

17 A. I think we did.

18 Q. And can you tell me what you recall about that?

19 A. Well, so analysts -- there's the standard table of
20 organization and equipment requirements for analysts, okay? In
21 common terms, we fight, you can always use more. So we built company
22 intel teams which is a common technique across the Army even now.
23 Those slots aren't authorized analysts but that's a good place for

1 them to be to get the most intelligence out of a competent insurgency
2 which is the bottom up feed of information. So we had a shortage of
3 intel analysts and we put the analysts in the most important slots
4 available, and that was true for intel officers as well, but we had
5 our requisite share as compared to any other brigade that was going
6 downrange.

7 Q. So if I understand your testimony, you didn't have a
8 shortage from an intel standpoint of the numbers that you were
9 authorized, but you did have a shortage, maybe, in what you would
10 have desired?

11 A. No. I think we had some shortage. Something below 100
12 percent in the intel fill. I don't remember the exact number, but
13 I'm going to guess this swag of probably something like -- somewhere
14 between 85 and 90 percent fill. That's a pure guess.

15 Q. Now, from your perspective was there any pressure placed on
16 the brigade S-2 section to take Soldiers with them that should not
17 deploy?

18 A. No. From my perspective there wasn't any pressure on
19 anybody to take a Soldier who shouldn't deploy downrange.

20 Q. Prior to the deployment, did the brigade S-2 section ever
21 raise an issues concerning whether or not PFC Manning should deploy?

22 A. Not to me, not to my knowledge.

23 Q. Prior to the deployment Major Clausen was your Brigade S-2?

1 A Yes.

2 Q. And you had an opportunity to view his duty performance?

3 A. I did.

4 Q. And what type of duty performer was Major Clausen?

5 A. From my perspective he was a average Major in his overall
6 performance. He was less than average on his ability to conduct a
7 technical aspect of his job which, most important to me, was
8 providing analyzed intelligence in a manner that was usable to the
9 Maneuver Commanders.

10 Q. From your perspective, was Major Clausen a strong leader?

11 A. Not particularly strong, but I would also say not
12 particularly weak either from my vantage point.

13 Q. Did you know, from your perspective, how Major Clausen
14 supervised and managed the personnel in the S-2 section?

15 A. I didn't have the ability on a daily basis of that.

16 Q. Who was the Brigade S-2 NCOIC prior to deployment?

17 A Sergeant Adkins.

18 Q. At any time did anyone within your brigade complain or
19 alert you to a complaint that Major Clausen abdicated his
20 responsibilities to supervise S-2 personnel to Master Sergeant ----

21 MJ: Hold on. Yes?

22 CDC[MR. COOMBS]: ---- Adkins?

23 ATC[CPT MORROW]: Objection, Your Honor, calls for hearsay.

1 CDC[MR. COOMBS]: Let me finish the question, please, and I'll
2 just finish the question then I'll respond.

3 **Questions continued by the civilian defense counsel [MR. COOMBS]:**

4 Q. So, at any time did anyone within your brigade complain or
5 alert to you a complaint that Major Clausen abdicated his responsible
6 to supervise all S-2 personnel to Master Sergeant Adkins?

7 MJ: Before you answer let me ----

8 CDC[MR. COOMBS]: My response, ma'am, is not offered for the
9 truth of the matter asserted, but the effect on the listener.

10 MJ: All right. Government?

11 ATC[CPT MORROW]: We'll withdraw the objection.

12 MJ: Proceed. Overruled.

13 WIT: No.

14 **Questions continued by the civilian defense counsel [MR. COOMBS]:**

15 Q. Were you ever made aware whether or not at any point
16 afterwards that Major Clausen abdicated his responsibility to
17 supervise S-2 personnel to Master Sergeant Adkins?

18 A. No.

19 Q. That was never raised to you at any point during the 15-6
20 investigation?

21 A. Not that I recall.

22 Q. Did there come a time when you removed Major Clausen from
23 his duties as the S-2?

1 A. Yes.

2 Q. And when was this?

3 A. I don't remember the exact dates, but I'm thinking it was
4 January/February time frame, if I recall.

5 Q. Of 2010?

6 A. Right.

7 Q. So during the deployment?

8 A. Right.

9 Q. Was it unusual for you to remove a key brigade staff member
10 during a deployment?

11 A. Yes.

12 Q. Had you given thought to removing Major Clausen prior to
13 the deployment?

14 A. Yeah. In the aspect that those kind of things usually
15 aren't something that you just wake up and decide to do. So I had
16 been working with him on his ability to perform those skills I
17 described earlier and was not making much progress and I was
18 concerned about the impact that was going to have operationally on
19 our ability to carry out our mission.

20 Q. And why did you choose to remove him in the
21 January/February time frame during the deployment?

22 A. The elections were approaching. We were working on
23 building capacity with our Iraqi counterparts, intelligence and

1 analysts a critical part of that and he still wasn't providing that
2 kind of analysis that we needed for the Commanders on the ground from
3 a operational standpoint and to train our Iraqi partners.

4 Q. Who did you replace him with?

5 A. Captain Steve Lim.

6 Q. Was it common to replace or, excuse me, was it common to
7 have a Captain as your Brigade S-2?

8 A. Not particularly. We mentioned the intel officer
9 shortages. So it wasn't unheard of to have a Captain filling a
10 Major's job or a Lieutenant filling a Captain. In fact, in my
11 battalions I had all Lieutenants filling Captains, intelligence
12 officers at the battalion level analogous positions to the Brigade
13 S-2.

14 Q. Why didn't you select another Major to replace Major
15 Clausen?

16 A. Two reasons. The Division Commander had offered some
17 Majors from his staff to replace our Brigade S-2 when I moved Clausen
18 out. My assessment of those Majors were they are all okay. I didn't
19 see any particular shining star that was going to come in and make
20 things magically great overnight. And they didn't have the knowledge
21 of our area of operations the way somebody from the inside was.
22 Captain Lim who had done been in the brigade for some time. He had
23 been a Battalion S-2 on a previous deployment. He had proven

1 leadership skills as Company Commander and he had proven ability to
2 translate intelligence into terms that Maneuver Commanders could
3 understand, both from his previous deployment where he had performed
4 very well and my observations of him working as the Military
5 Intelligence Company Commander and providing direct assistance to the
6 brigade S-2 shop. So I couldn't think of a better available fit than
7 Steve Lim.

8 Q. And was it your determination that January/February was
9 when you needed to replace Major Clausen with a Captain?

10 A. Yeah. I had consulted with some other people about this.
11 The Assistant Division Commander, who had direct oversight of our
12 area of operations, and some other folks and in consultation with him
13 and some others, I determined that rather than drag this on it was
14 better to make a call now and that would -- to delay any longer,
15 while I can't predict the future, would potentially be even more
16 adverse than it had been. So that was the best time. And the
17 elections were approaching so it was a good time to make sure we had
18 things going in the right direction.

19 Q. And did you also, sir, have an opportunity to review the
20 duty performance of Master Sergeant Adkins?

21 A. Not really, not on a regular basis.

1 Q. Based upon your limited ability to see him and what was
2 reported to you, did you form an opinion as to what type of duty
3 performer Master Sergeant Adkins was?

4 A. Not really.

5 ATC[CPT MORROW]: Objection. Lack of personal knowledge or
6 ability to testify that he didn't have the ability to form an opinion
7 on whether or not or ----

8 MJ: Well, he's just testified that he hasn't formed an opinion.
9 Are we going any further down this road?

10 CDC[MR. COOMBS]: Yes, Your Honor. I have his sworn statement.
11 So I can confirm with his sworn statement where he had an opinion.

12 MJ: All right. Overruled. Go ahead.

13 **Questions continued by the civilian defense counsel [MR. COOMBS]:**

14 Q. Sir, I'm handing you what's been marked as Defense Exhibit
15 Kilo-Kilo-Kilo for Identification.

16 A. Uh, huh.

17 Q. If you would, sir, just take a look at that.

18 **[The witness did as directed.]**

19 A. Okay.

20 Q. Sir, is that your sworn statement?

21 A. It is.

22 Q. And when did you give this sworn statement?

1 A. I gave it to Lieutenant General Caslen after we returned
2 from deployment and the invest -- Army's investigation into
3 circumstances surrounding the incident were being looked into.

4 Q. And, sir, if you would turn to Page 3 of the statement?

5 A. [Affirmative response.]

6 Q. Do you see a section called, "Intelligence Section?"

7 A. Yes.

8 Q. And do you see a section number two, "Master Sergeant
9 Adkins' Performance as a NCO?"

10 A. Yes.

11 Q. Sir, during that time period did you have an opinion that
12 he was a marginal duty performer?

13 A. Yes.

14 Q. And that he wasn't quite bad enough to relieve or be
15 replaced?

16 A. Yes. So that statement I made in the context of my
17 interview with General Caslen and where it came from and where my
18 information in that comment came from was from my Command Sergeant
19 Major who had also been in the brigade for quite some time. He had
20 been the Battalion Command Sergeant Major for our brigade support
21 BSTB Battalion. He had been the command Sergeant Major for 431
22 Infantry, one of our maneuver battalions. And at that time he had
23 just moved up to being the Brigade Command Sergeant Major after we

1 redeployed. And when he came up to the brigade he saw Master
2 Sergeant Adkins who used to be in one of his battalions before and he
3 had made -- he a comment that he was surprised to see him working at
4 the brigade because he thought that he was a marginal performer. And
5 so my comment to General Caslen was based on my translating to him
6 what I had gotten from the Command Sergeant Major Jones.

7 Q. So from -- if I understand you correctly then you did not
8 form -- you had no opinion as to the brigade NCOIC or the S-2
9 section?

10 A. Not directly. I trust my current Sergeant Major. So I was
11 conveying what my Command Sergeant Major's views were to ----

12 MJ: Can I interrupt you for just a second? What is his name?

13 WIT: The Sergeant Major?

14 MJ: Yes.

15 WIT: Command Sergeant Major Benjamin Jones.

16 MJ: Thank you.

17 **Questions continued by the civilian defense counsel [MR. COOMBS]:**

18 Q. So again, and it's important that here today we get your
19 opinion and not something that's necessarily relayed to you by
20 somebody else.

21 A. Yeah.

22 Q. So prior, I guess to speaking ----

23 A. So I would say, just to get -- I think I know what ----

1 Q. Well, sir ----

2 A. I think I know what -- go ahead.

3 Q. ---- if you would. Prior to speaking with Command Sergeant

4 Major, did you have an opinion regarding your brigade S-2 section's

5 NCOIC?

6 A. I didn't have any strong opinion. Just on my casual

7 observations I would say he was a mediocre noncommissioned officer.

8 Would be my general view.

9 Q. Retrieving Defense Exhibit Kilo-Kilo-Kilo for

10 Identification from the witness. And, sir, at any time did anyone

11 complain to you or through your brigade staff about Master Sergeant

12 Adkins' leadership skills?

13 MJ: Yes? Hold on just a moment.

14 WIT: Not that I recall ----

15 MJ: Just a moment please. Yes?

16 ATC[CPT MORROW]: Government would object to this line of

17 questioning as improper under Article 404.

18 MJ: M.R.E. 404?

19 ATC[CPT MORROW]: 404. Character evidence, I mean, related to

20 Master Sergeant Adkins or Sergeant First Class Adkins.

21 MJ: Mr. Coombs, just briefly, if you would what's -- where are

22 you going with this testimony?

1 CDC[MR. COOMBS]: Yes, Your Honor. Not character evidence under
2 404, but this line of questioning and other line of questioning from
3 other witnesses is extenuation and mitigation evidence. The
4 defense's position on that is it explains the circumstances
5 surrounding how the offense happened within the S-2 section.

6 MJ: All right. I'm going to overrule it. Go ahead.

7 **Questions continued by the civilian defense counsel [MR. COOMBS]:**

8 Q. So again, I'll go back to my question. At any time did
9 anyone within your brigade staff complain to you about Master
10 Sergeant Adkins' leadership?

11 A. Not that I recall.

12 Q. At any time did anyone in your command ever make a
13 recommendation to remove Master Sergeant Adkins from his duty
14 position?

15 A. No.

16 Q. So roughly how many Soldiers deployed as part of your
17 brigade?

18 A. About 4,000.

19 Q. And during the deployment did you track how many command
20 directed mental health evaluations you had in your brigade?

21 A. I didn't track by total tally, but I did track in general
22 when Soldiers were getting command directed. I think we had about 24
23 or 25.

1 Q. Do you recall reporting that number within your sworn
2 statement?

3 A. I think I did.

4 Q. And so based upon what you just said, am I correct that you
5 had roughly 24 command directed mental health evaluations the during
6 the deployment?

7 A. Yeah. I think we had about 300 overall behavioral health
8 referrals and of those about 24 were command directed.

9 Q. And were those command directed mental health evaluations
10 briefed to you?

11 A. The results of the evaluations?

12 Q. Just the fact that they were done, was that one of your
13 Commanders' critical information reporting requirements?

14 A. Yes. I mean, the fact when it was command directed I would
15 get told this -- a Soldier was command directed for behavioral
16 health, not the results of what came out of the analysis.

17 Q. And who was the release authority from theater, if you're
18 going to redeploy somebody?

19 A. So, I think I was for those events. I was trying to recall
20 whether or not we had to send those for a Division for a hack, but I
21 -- if it had a Division hack I never got any of them denied or
22 questioned by anybody at Division.

1 Q. Sir, during the deployment did you approve of any release
2 from theater requests for mental health reasons?

3 A. I believe I did.

4 Q. Do you recall ----

5 A. I can't recall the specific ones.

6 Q. Do you recall reporting that in your sworn statement?

7 A. Of the twenty -- we had a number. I don't recall what the
8 number was.

9 Q. If I showed you your sworn statement would that help
10 refresh your memory?

11 A. Sure. I'm going to guess probably about six or seven.

12 Q. I'm handing the witness Defense Exhibit Kilo-Kilo-Kilo for
13 Identification. Sir, if you would just look at that yourself. I
14 believe if you look to Page 3. Once you're done looking at that just
15 look up at me, I'll retrieve it and then I'll ask my question again.
16 **[The witness did as directed.]**

17 A. Okay.

18 Q. I'm retrieving from the witness Defense Exhibit Kilo-Kilo-
19 Kilo for Identification. Sir, does that refresh your memory?

20 A. Yes.

21 Q. And, sir, roughly how many -- well actually, how many
22 approvals did you have for release from theater due to mental health
23 issues?

1 A. Sixteen.

2 Q. Did you put out any guidance regarding what types of
3 requests that would you approve or disapprove when it came to mental
4 health issues?

5 A. No. I think that would be very inappropriate.

6 Q. How did individuals in your command know to -- when to
7 request a release from theater due to mental health issues?

8 A. Usually on medical recommendation from the doctor.

9 Q. And to your memory, sir, was that all of the 16 that you
10 had were the doctor recommended?

11 A If they were behavioral health, it had to have a doctor's
12 recommendation.

13 Q. Did you have any instances in which just the command
14 supported the return of the Soldier, the redeployment of the Soldier?

15 A. So I recall of a case, and there may have been a few
16 others, that were not mental health related. They may have been
17 traumatic events in somebody's life, for example. One comes to mind
18 that I can get specific on if you want me to. But ----

19 Q. That's fine, sir.

20 A. ---- that particular family situation for compassionate
21 reasons the command decided it was best to allow that Soldier to stay
22 home and deal with the circumstances that their family was dealing

1 with and there was no medical piece to that individual Soldier's
2 situation.

3 Q. Sir, if the immediate command of a Soldier believed that a
4 Soldier should be returned home due to either being risk to harm
5 himself or others, would this be something that you would likely
6 approve or would you require something more than the command's
7 recommendation?

8 A. It would still have to have a medical piece that and what
9 the doctors were thinking about it.

10 Q. If you have a disagreement between the command and the
11 doctor do you know right now how would you decide that or would it be
12 case by case?

13 A. It would have to be case by case. Hypotheticals in this --
14 in that situation they're pretty dangerous.

15 Q. I guess you wouldn't have a hard fast rule?

16 A. I don't think you can. It kind of like having rules for
17 adjudicating UCMJ. That's not --

18 Q. Yes, sir.

19 A. Okay.

20 Q. Are you familiar with what a DEROG is?

21 A. Yes.

22 Q. And how are you familiar with that, sir?

1 A. It's a standard process for the military, particularly the
2 military police, and in particular for tracking completion of
3 incidents that are reported a lot of reports and might result in
4 adverse actions.

5 Q. And what is a DEROG -- based upon your understanding when
6 is a DEROG initiated against somebody with a security clearance?

7 A. If, well it's not necessarily with someone with a security
8 clearance or not, that's really not relevant to a DEROG being
9 initiated. If an incident occurs that might result in an adverse
10 action, say for example, someone gets a DUI or is charged underneath
11 UCMJ Article 15 or Summary Court-Martial, that kind of thing, then a
12 DEROG would be initiated.

13 Q. And maybe I'll just back up slightly. What is your
14 understanding of the purpose of a DEROG and who it goes to?

15 A. My understanding, the purpose of a DEROG is to confirm the
16 completion or -- and document that the command has followed through
17 on a particular incident that resulted in a DEROG being initiated in
18 the first place.

19 Q. Sir, do you still have Defense Exhibit Kilo-Kilo-Kilo for
20 Identification?

21 A. No.

22 Q. Handing this to you again. If you would, sir, turn to Page
23 4 of Defense Exhibit Kilo-Kilo-Kilo for Identification?

1 A. Okay.

2 Q. With regards to a DEROG, that has to go through the unit

3 security manager?

4 A. Yes.

5 Q. And, sir, is that dealing with a Soldier's security

6 clearance?

7 A. It does, among other things, yes.

8 Q. And what is your understanding of that?

9 A. So when the DEROG is going through, if I understand your

10 question right, one of the checks on it is checking the Soldier's

11 security clearance and determining if action should be taken on that

12 clearance based on whatever incident occurred.

13 Q. Do you know, sir, who is responsible for initiating a

14 DEROG?

15 A. The Commander.

16 Q. Is that -- which level of command, sir?

17 A. Company level.

18 Q. And who was PFC Manning's Company Commander in December of

19 2009, do you recall?

20 A. I think it was Captain Dreher at that time. It was either

21 Captain Dreher or Captain Fulton.

22 Q. And with regards to Dreher was he ever a Major during the

23 time of his Company Command?

1 A. Yes, I believe he was.

2 Q. And from your in memory what type of Commander was Major
3 Dreher?

4 A. He was a pretty good commander. He was pretty even keel,
5 pretty level headed commander in general.

6 Q. Was Major Dreher ever relieved of his command during the
7 deployment?

8 A. He was.

9 Q. And when was that, sir?

10 A. Again, I don't know the exact time frame, but that's when I
11 sent Captain Fulton in to replace him. I'm going to say probably
12 December/January time frame, I'm guessing.

13 Q. Of 2010?

14 A. Right.

15 Q. And, sir, you said Captain Fulton, does Captain Matthew
16 Freeburg sound right?

17 A. I'm sorry, Freeburg. I'm getting another officer confused
18 with Freeburg.

19 Q. Yes, sir.

20 A. Captain Freeburg. Thank you.

21 Q. No problem, sir. So at the time that Major Dreher was
22 relieved, was it your opinion that he was making good decisions?

1 A. I can't speak to all of the decisions he made. He was
2 relieved because he was untruthful about property accountability
3 reports that he was making.

4 Q. Are you aware of whether or not Major Dreher ordered a
5 command directed mental health evaluation of PFC Manning in December
6 of 2009?

7 A. I don't recall that one. I recall there was one in May,
8 I'm sorry, I think there was a referral somewhere in that time frame.

9 Q. Were you ever briefed on any incident involving PFC Manning
10 in December of 2009?

11 A. No.

12 Q. And I'm just going -- to ensure that you're not aware of
13 it, I'm going to ask you if these facts jog your memory at all.

14 A. Okay.

15 Q. Were you ever informed of an incident in which PFC Manning
16 flipped a table during a counseling session?

17 A. No, not until after the redeployment and all of this trial
18 proceedings occurred. I've heard about it in the past months.

19 Q. All right. Sir, so I want to go ahead and make sure I
20 understand the dividing. So at the time of the deployment you were
21 not aware of an incident in which ----

22 A. No.

23 Q. ---- PFC Manning flipped a table?

1 A. Correct.

2 Q. After the -- when did you find out about that incident?

3 A. It was after -- sometime after the General Caslen's
4 investigation had been initiated. So after August of 2011 and
5 sometime during the time period of that investigation was going on.

6 Q. Do you think based upon what you found out about in it
7 August of 2011 that this should be an issue that was addressed to you
8 in December of 2009?

9 A. Not necessarily.

10 Q. And why not, sir?

11 A. Well, in context I mean a Soldier flipping a table's isn't
12 the kind of thing that would he rise to the Brigade Commander's
13 level. Probably something that would be handled by a squad leader.

14 Q. Were you ever informed in August of 2011 that another
15 Soldier had to restrain PFC Manning from apparently grabbing a weapon
16 during a counseling session?

17 A. No.

18 Q. You're not aware of that fact?

19 A. Not exactly. There were a number of stories that were told
20 to me about different things Manning had done. That exact one I
21 don't remember it specifically, but ----

22 Q. So going back to what you said, would normally not rise to
23 your level a table flipping incident. If it also involved grabbing a

1 weapon during a counseling session, would that rise to your level as
2 a Brigade Commander or should it?

3 A. Well, it depends. So to put it in context, you take any
4 one of those individual incidents and no, not necessarily. There's a
5 whole layer of command that can deal with that. So it's hard for me
6 to answer your question of if this happened -- this incident
7 happened. Those are the kinds of things that if that event occurs,
8 the first one you described, a squad leader probably would address it
9 and it all depends on what's behind it and all of the other
10 circumstances surrounding it and why did it occur. A table flipping
11 by itself could just be an emotional outburst. It could be a single
12 incident that somebody just lost their cool. It could be an
13 indicator of patterns. There's all kinds of things that go behind
14 it. So that's why I'm kind of careful how I respond to your question
15 of a Soldier grabbing a weapon, I would expect that a Comp -- the
16 average Company Commander or First Sergeant could handle that. I may
17 have been made aware of it by the chain of command, just to go, "Hey,
18 sir, by the way, this thing occurred, we got a handle on it, this is
19 what we're doing about it," so it could rise. Again it all depends
20 on some of the specifics behind the individual and the other things
21 that had been going on in the organization.

1 Q. During the deployment, sir, were you ever made aware of any
2 memorandums for record that Master Sergeant Adkins wrote concerning
3 PFC Manning?

4 A. No.

5 Q. After the deployment were you ever made aware of those?

6 A. I don't think so.

7 Q. So today as you say, you haven't seen any memorandums
8 written by Master Sergeant Adkins concerning PFC Manning?

9 A. I haven't seen any, no.

10 Q. Now I want to ask you a few questions about what you did
11 after PFC Manning was arrested, okay?

12 A. Okay.

13 Q. Did you and your staff conduct an after action review?

14 A. Yes.

15 Q. What was the purpose of that after action review?

16 A. We wanted to find out if any procedures or processes we
17 were carrying out or not carrying out may have been part of how this
18 occurred. And separate from that, even if they weren't part of what
19 occurred, how are we doing across the spectrum of operational
20 security, physical security, information assurance, all of those
21 things. Because it prompted a reason for us to take a look at
22 ourselves and make sure we're doing things to the best of our
23 ability.

1 Q. And sir, from your memory, after the after action review,
2 did the brigade in the institute access controls on folders on the
3 shared drive?

4 A. Yes.

5 Q. And, sir, did the brigade also limit removable media
6 writing privileges to select computers and select individuals?

7 A. Yes.

8 Q. Sir, after the action review did the brigade also require
9 the reestablishment of random entry and exit inspection programs for
10 T-SCIFs?

11 A. Yes, I believe we did.

12 Q. And, sir, did the brigade also start enforcing the rules
13 regarding unauthorized media on the shared drive and in the T-SCIF?

14 A. Yes. That I think we had been doing before that, but we
15 certainly increased our focus on it.

16 Q. And, sir, after the after action review, did the brigade
17 draft a DEROG SOP?

18 A. To be honest with you, I don't remember whether we did or
19 not, I think that -- but I believe we did.

20 Q. Sir, from your memory then regarding that, why did you
21 draft a DEROG SOP?

22 A. Well again, so it's important to understand the context of
23 the review we did. The review we were doing went, like I said,

1 beyond the scope of just responding to what occurred with Manning, it
2 was looking at all of these processes. Now a DEROG, the completion
3 of DEROGs technically is an Army wide challenge. So it's just like
4 keeping up with TDY vouchers. It's a problem in every installation,
5 including Fort Meade and across the Army, I've found those through to
6 completion. The completion of the DEROG report itself though doesn't
7 mean that appropriate action wasn't taken. The tracker, when you
8 usually find, is that the commands have taken action. They just
9 didn't close out the DEROG. And so it's usually a matter of going
10 back and having the commands go, "Hey, what did you do in this case,
11 what did you do in this case, what did you do in this case," and they
12 finish the DEROG form. Which is just writing in, "Soldier got an
13 Article 15. Charges were filed unsubstantiated, no action taken."
14 And then submitting the DEROG in to get the thing closed out. So 90
15 percent of those DEROGs that are open are because of administrative
16 not -- lack of follow through on those, the document itself, not that
17 action wasn't taken to address the circumstance ----

18 Q. And what ----

19 A. ---- just to put it in context.

20 Q. What guidance, in general, did you put out with a new DEROG
21 SOP, do you recall?

22 A. I do not.

1 Q. With regards do the actual filing you said, "That's a
2 problem." So your understanding that once it's filed and then that
3 becomes kind of a historical record for other commands to see any
4 issues with a particular Soldier?

5 A. I suppose that would be one use of the DEROG.

6 Q. Sir, I'm going to retrieve from you Defense Exhibit Kilo-
7 Kilo-Kilo for Identification.

8 A. Okay.

9 Q. Sir, thank you. I have no further questions.

10 A. Okay.

11 MJ: Cross examination?

12 **CROSS-EXAMINATION**

13 **Questions by the assistant trial counsel [CPT MORROW]:**

14 Q. Good morning, sir. Just give me one second.

15 A. Sure.

16 Q. Sir, I want to start with the pre-deployment, your actions
17 regarding how you -- your review of your formation, essentially in
18 terms of who is going to deploy and who is not. Can you discuss the
19 process that you went through with your subordinate Commanders in
20 determining -- in scrubbing rosters essentially?

21 A. Sure. So I started to explain a little bit of that
22 earlier. So as we're moving closer towards deployment, we would meet
23 to review our standing list of non-deployables and take a look at all

1 of those. As I mentioned earlier, who were up for a chapters, for
2 elimination, for adverse reasons, who were medically non-deployable,
3 or any other category that might fit there, with a view towards
4 reducing those numbers in case of separation, as to separate as many
5 as possible. And for those who we couldn't separate on time know
6 clearly what the rear detached would be to finish separating those
7 Soldiers. Also taking a hard look at of those technically non-
8 deployable who could deploy and if they had a condition that -- when
9 you look at commands deploying the vast majority of the leadership's
10 going forward downrange and a smaller rear d with less capability to
11 handle certain cases is back at home station. So one of the
12 questions we would ask is, "Could that person's situation be better
13 dealt with at command forward or/and which ones couldn't," because of
14 the conditions in theater wouldn't support that or which ones were
15 better served with the known requisite leadership that were inherent
16 in the chain of command to deal with their particular circumstances.
17 So that was one of the criteria that we looked at to make those
18 subjective calls whether to go forward or not.

19 Q. And, sir, these were, you know, you had your Company
20 Commanders first do their sort of scrub?

21 A. Yes.

22 Q. And they moved up and briefed their Battalion Commanders
23 and then you met with your Battalion Commanders and essentially went

1 over the entire formation and they sort of briefed you on, "Hey, this
2 guy's -- we're going to chapter this guy. He's medically
3 undeployable, etcetera." And that was all information provided to
4 you in the course of this review prior to deployment?

5 A. That's correct.

6 Q. And, sir, I want to talk a little bit about the challenges
7 of the rear detachment with respect to the rest of the command going
8 forward. Can you talk a little bit about what a Brigade Commander
9 has to worry about sort of with the rear, what are the issues that
10 arise during deployments?

11 A. Sure. So a rear detachment does not exist under any table
12 of organization or equipment. So it's an *ad hoc* formation that every
13 unit creates out of necessity. So there's no authorization for that
14 in our structure. So every person you leave on the Rear D has to
15 come out of the organization that you're taking forward. When you
16 look at the demographics of a rear detachment, like I just mentioned,
17 you have a large number of Soldiers in that rear detachment that are
18 being separated from the military usually for adverse reasons,
19 multiple DUIs, drug use, other failure to meet military standards
20 kind of conditions. You have people that are in various stages
21 medical separation that need to be properly taken care of, treated
22 respectfully, and go through the medical board process and separated
23 from the service or in some cases treated back to health so they can

1 be deployable and get downrange. And then you have a category of
2 administrative requirements just to keep the functions of the
3 formation in the rear operating. Weapons qualification, maintain
4 maintenance of the facilities that are back there that you're going
5 to reoccupy when you return, and then significantly you've got family
6 readiness groups that are most important while you're deployed. And
7 so you're family -- your rear det -- your family readiness team on
8 your Rear D is a huge part of a function that you're rear detachment
9 has to perform. So it's a very small group that you have to create
10 out of hide, any of them a number of different circumstances.
11 There's some real challenges that go with it. So, for example,
12 you've got all of these Soldiers that you're separating from the
13 Army, men who tend to have a bad attitude. And so you've got to the
14 pick the right people to be on the rear detachment, the right
15 leadership, the right temperament, some strong leadership to
16 synchronize and coordinate that effort. In our case, you know, we
17 chose -- because you have a small group of folks with limited
18 resources to do that. I picked the best available Rear Detachment
19 Commander I could and the rear detachment non-commissioned officer in
20 charge. So I selected a Lieutenant Colonel who had been selected
21 already for a Battalion Command. So the Army had already marked him
22 as in the top 10 percent or less of his particular year group. And I
23 picked up the best First Sergeant in our brigade to be in the Rear

1 Detachment Commander. You know, a guy with valorous awards and that
2 kind of thing, to get the right kind of leadership coverage. And
3 then we took another step, we test organized the rear detachment to
4 make it as efficient as we possibly could.

5 Q. What do you mean by that, sir?

6 A. Well, so I had an experience before we deployed when I
7 first took command where I was coming back from a training event and
8 I had a driver bringing our duty vehicle bringing me back from the
9 training event and he was a little bit overweight. So I looked at
10 him and I just asked him, you know, what his story was and it turned
11 out that he was a medical chapter separation and waiting to get out
12 of the Army, he was not going on this deployment. He was going to go
13 on the rear detachment, and he had been on a previous deployment and
14 he started telling me about experience when he first came into the
15 unit. And he was -- he arrived late to the unit during the last
16 deployment, so he was a late deployer. So he came to the unit while
17 the Rear D was functioning, which is another function of rear D to
18 bring in new Soldiers, prep them, and get them ready to go downrange
19 and join the unit. And he said to me that my -- his first experience
20 was his squad leader, when he first came to the unit, was from the
21 rear detachment and he was an NCO being chaptered out of the Army for
22 multiple drug use, and he abused, you know, him as a Soldier and then
23 he made a comment to me that stuck -- sticks me to this day, he said,

1 "Hey, but, sir, that's just the way it is. That's part of the rights
2 of passage, you deal with that crap and then you go downrange and
3 that's just what you've got to deal with." So it struck me that
4 without some concerted effort, inherent in the rear detachment is a
5 new Soldier fresh to the Army full of vim and vigor and wanting to do
6 his part to serve America gets married up by happenstance with a
7 noncommissioned officer being separated from the Army and his first
8 experience is abusive. So I asked myself, "How are we not going to
9 let that happen?"

10 Q. And what did you do, sir?

11 A. We came up with the idea to organize the rear detachment so
12 that those things would not occur. We took each battalion on the
13 Rear D and give it a specific mission. So one battalion had the
14 separations of people, adverse actions, and medical, into two
15 different subcategories, and housed them in a separate set of
16 barracks and that chain of command focused on that mission. Inbound
17 Soldiers that were new to the unit that were there going to go
18 through reception staging and outward movement to deploy were in a
19 different battalion's category to keep that kind of thing from never
20 occurring. And that's why picking the right rear detachment
21 Commander was so important. Because at the battalion level you've
22 got a Captain and Sergeant First Class, at best, to manage their
23 level of rear detachment operations. So we found that that

1 methodology ended up working very well for us in preventing those
2 kind of circumstances from occurring.

3 Q. And, sir, is that sort of structure of a rear detachment,
4 is that something that you had heard of prior to you implementing
5 that in your brigade?

6 A. No. In fact, when I briefed it to General Terry, who was
7 our -- the 10th Mountain Division Commander at the time he found it a
8 pretty unique approach to a challenge that every unit has and we
9 ended up sharing that methodology with other brigades as a technique
10 that they might want to consider.

11 Q. And, sir, is it fair to say that you as a Brigade Commander
12 going forward, going downrange, you put as much time and effort into
13 thinking about how to set up your rear detachment as you do with the
14 people going forward?

15 A. Absolutely.

16 Q. And why is that, sir.

17 A Again, you've got the preponderance of the leadership
18 forward. So I knew downrange if we've a challenge or issue, I got
19 all the energy and capacity forward already to deal with those. In
20 the rear I'm separated by thousands of miles and I've got limited
21 capacity in terms of resources back there. So getting that right is
22 crucial. It's crucial to take care of the families, because if
23 there's family issues then Soldiers mind coming off of what's going

1 downrange. We also want those families for the long haul in the
2 Army, not just the one deployment. So their perspective and attitude
3 about how things go during the deployment isn't just about, "I'm okay
4 for right now, but do we want to make this a lifetime career thing."
5 And the families vote as loud as anybody else on whether a Soldier
6 stays in the Army, you know, or not. So for those reasons and making
7 sure we had the right leadership back there to prevent focus from the
8 mission at hand pulling attention to the rear is why you'd want to
9 set conditions right up front and then when you did have an issue you
10 knew you had the right folks there to trust that they'd be able to
11 handle the situation.

12 Q. Give me one second, sir.

13 A. [Affirmative response.]

14 Q. Sir, let's talk about the removal of Major Clausen. Major
15 Clausen was removed because he didn't provide good intelligence
16 products to you as the Commander; is that correct?

17 A. Yes.

18 Q. He wasn't removed because of his leadership skills?

19 A. No, not at all.

20 Q. Or his management skills?

21 A. No.

22 Q. His deficiencies, at least in your mind, were not
23 management related?

1 A. No.

2 Q. And you said on direct that Major Clausen wasn't

3 necessarily strong or weak, it was sort of an average Major?

4 A. From my observations, that's correct.

5 Q. And the person who replaced Major Clausen, Captain Lim,

6 that happened in the approximately January of 2010 time frame, sir?

7 A. Yeah, to my -- yeah, I believe that's correct.

8 Q. And Captain Lim is an outstanding officer?

9 A. He is.

10 Q. He's a top ten percent officer?

11 A. Top two percent.

12 Q. And why do you say that, sir?

13 A. He has a combination of attributes and traits that we look

14 for in young officers. He's a strong leader. And by that I don't

15 mean just in imposing his will on people, I mean motivational. He

16 understands the larger picture, at least two levels up, so he's got

17 great perspective that you don't normally find in a young captain. I

18 would say that at that time he was performing as good or better than

19 most majors in my command. And he's a team player that shares his

20 expertise selflessly. He's a great lead by example kind of person

21 from everything from his physically fitness and programs to his

22 technical competence, to his care and treatment of Soldiers and

1 families. So I can't think of a particular area that I would say he
2 had a chink in his armor, so to speak.

3 Q. And he had been a battalion S-2 in a previous deployment?

4 A. He had.

5 Q. And generally the way the Army works is, you know, you're a
6 principal staff member, you know, at sort of battalion level and then
7 you may have a few jobs in there where you're like the assistant but
8 then you eventually -- the idea is that you go to brigade and you
9 become a principal staff member there?

10 A. That's correct.

11 Q. And, sir, you also had other military intelligence officers
12 in the command that were there to help Captain Lim if there were
13 issues ----

14 A. Yes.

15 Q. ---- is that correct?

16 A. Yes.

17 Q. In particular the Brigade Support Battalion.

18 A. Yeah. Captain, well sorry, Lieutenant Colonel Paul Walters
19 was our Brigade Support Battalion Commander, who was an MI, a
20 Military Intelligence officer, as well. And so he was always
21 lending, coaching, and mentoring in oversight to our intel team. Not
22 just to Captain Lim, but to the entire intel team.

1 Q. So it's fair to say that you even had -- you had another
2 back stop there when you removed Major Clausen?

3 A. Absolutely.

4 Q. Sir, I want to talk about Captain -- Major Dreher. He was
5 -- he took command about 3 months prior to deployment?

6 A. Right.

7 Q. And he came recommended because he was older, he had had
8 previous Company Commands?

9 A. Yes.

10 Q. And why is that for important an HHC Company -- or HHC
11 Commander?

12 A Yeah. HHCs in general and Headquarters and Headquarters
13 Company for a brigade in particular is unique from a typical Line
14 Company. And what makes it different is if, you know, if you're a
15 Rifle Company Commander all of your formation's energy is pretty much
16 going in one direction at any given time. Take the hill, so to
17 speak, that's not that complicated. Headquarters Company is made up
18 of a bunch of disparate sections all doing different things. The
19 rank structure is totally flipped from a typical company where you're
20 rank heavy. So a lot of the people in a HHC out rank the Company
21 Commander. All the field grades on the staff, you've got a lot of
22 senior NCOs, you've got a Brigade Commander in your company. So it
23 takes a level of maturity to not be the bullheaded, follow me, do as

1 I do Commander and be able to use a lot other leadership techniques
2 to get things done that need to get done and be value added for the
3 command. Because the real purpose of an HHC Commander or command
4 team, because the First Sergeant I put in that same category in my
5 mind, is to facilitate the command's ability to focus on the entire
6 brigade and not get bogged down on nuance details of what's going on
7 inside the company and the staff itself. So you're not a -- you
8 don't become a self-licking ice cream cone, so to speak.

9 Q. And, sir, Major Dreher was replaced by Captain Freeburg in
10 April of 2010 time frame; is that correct?

11 A. Right. I believe that's about right.

12 Q. And Major Dreher at the time he was the HHC Commander, but
13 he was also doing CHOPS as sort of a day job as well. Do you recall
14 that?

15 A. I think that's correct, yeah. We tried a number of
16 different things and I think that was one.

17 Q. And what is CHOPS?

18 A. It's the Chief of Current Operations. So in the Tactical
19 Operations Center in the brigade headquarters we've got a whole staff
20 element overseeing what's happening throughout any 24-hour period.
21 That's how we keep situational awareness throughout the command of
22 what's going on and then make resourcing and allocation decisions and
23 react to the events in the battlefield as they occur.

1 Q. And, sir, you said that Major Dreher was replaced because
2 of -- there was some property accountability issues?

3 A. Yes.

4 Q. Aside from the property accountability issues, was Major
5 Dreher a good Commander?

6 A. He was acceptable. Yeah, he was doing okay.

7 Q. And what do you mean by that, sir?

8 A. The Headquarters was running satisfactorily. The things
9 that I thought needed to get done were getting done transparently to
10 the Commander. So by attention the Brigade XO's attention weren't get
11 pulled into things that pulled our attention off the greater command.
12 So as I described the purpose of the command, he was meeting the
13 overall purpose of HHC.

14 Q. But Major Dreher would have taken appropriate steps if an
15 issue had risen to his level in your view?

16 A. I believe so. He had shown that in a previous command,
17 before he became the HHC Commander.

18 Q. That would be true of Captain Freeburg as well, your
19 observations again ----

20 A. Yes.

21 Q. ---- of Captain Freeburg?

22 A. Yes.

1 Q. Sir, let's talk about then Master Sergeant Adkins now
2 Sergeant First Class Retired Adkins. Well, but first I want to the
3 sort of back up. What was the Secretary of the Army 15-6?
4 A. What was it?
5 Q. Yeah, what was the purpose of it?
6 A. So my understanding of that purpose it was to not so much
7 be a mirror investigation to the investigation resulting in this
8 trial, it was an investigation to look across the Army breadth and
9 depth in terms of how we do everything, from established DA policy to
10 how we train Soldiers in basic training and advanced individual
11 training to how we hand off Soldiers from Basic and AIT to units that
12 they're going to deploy to, you know, how we handle deployables and
13 non-deployables it was a holistic look Army wide, and with drilldown
14 into the brigade as an example of how all of those things done to
15 find out where there are things that can be adjusted. If policy
16 needs to change, if how we're training people isn't meeting adequate
17 training regimen. We looked at the information assurance
18 requirements and are they adequate. And so, for example, Captain
19 Cherepko, our guy who does all of those things, had, you know, 37
20 different places to go -- or something, I'm making that number up,
21 but some wide variety of requirements. And could we better
22 consolidate those so they're better understood, and then looking for
23 what are the standards and where are there they clear, where are they

1 vague. So it was a very hard look across the Army on why are we
2 doing things and where can we do them better. What needs to change
3 and that kind of thing.

4 Q. And Lieutenant General Caslen was the investigating
5 officer?

6 A. Correct.

7 Q. And then you had a number of Lieutenant Colonels that were
8 kind of doing the day-to-day ----

9 A. Right.

10 Q. ---- busy work?

11 A. Yes.

12 Q. And they were interviewing members of the unit in January
13 of 2011, approximately? Do you recall when that was?

14 A. Yeah. That sounds about right, yeah.

15 Q. At least -- but -- and, sir, this goes back to Adkins now.
16 At least with respect to Adkins, he wasn't somebody that you had
17 visibility on at all and I think -- is that right?

18 A. That's correct.

19 Q. Is it fair to say that a lot of what was provided to you,
20 with respect to Adkins by the 15-6 -- 15-6 was sort of rumor,
21 innuendo, otherwise, you know, sort of after the fact looks at what
22 happened?

1 A. Yes. After the fact I think is a very adequate description
2 of what I was given.

3 Q. Sir, I want to talk about managing risk. Can you describe
4 your philosophy in terms of where a commander needs to put his sort
5 of best Soldier, at least when -- while deployed?

6 A. Sure. In general, and I don't think my philosophy is
7 drastically different than the commanders that I served with when I
8 was a Brigade Commander, you want to take the least amount of risk in
9 theater, in particular where the rubber hits the road, so at the
10 lowest levels. So you want to make sure that from a skill sets and
11 percent fill that your line units have all of the resources they need
12 and if you have to take risk, because you only got so much of any
13 given capability, you take risk at the higher echelons as you go up.
14 So in general, that's -- you want resource your subordinate commands
15 and make sure they got everything they need. And if you've got to
16 take risks somewhere, you'll take it at your level or try to push it
17 back to the next higher level.

18 Q. And that's a command philosophy throughout the Army?

19 A. That's pretty common philosophy.

20 Q. Sir, Mr. Coombs in his direct brought up a number of issues
21 with respect to briefing numbers prior to deployment in terms of who
22 you're going to leave behind and then while you're deployed sending
23 people back. Did you ever feel any pressure, as a Brigade Commander

1 in Iraq, that you couldn't send a Soldier home who needed to be sent
2 home ----

3 A. No, not at all.

4 Q. ---- for mental health reasons?

5 A. Not at all.

6 Q. And can you just elaborate on that, sir?

7 A. Well, you know, one thing commanders do, I mean, the
8 mission and accomplishing the at hand is, you know the job, but hand
9 in hand with that is taking care of Soldiers and families. So
10 commanders making calls as to redeploy Soldiers, I never had a
11 commander question my authority to do that. They may ask why, but it
12 was never done in the way that was like, "You shouldn't be doing
13 that. You need to keep everybody, you know, forward," and that kind
14 of thing. So the purpose for redeploying Soldiers is because there's
15 something back in the rear that's going to make things better for
16 that Soldier and a meet a require -- a need or requirement for that
17 individual or group. So it's -- yeah, the whole term, "Pressure," to
18 me is just falls flat with a chain of command that's functioning
19 properly.

20 Q. And a -- when you were a Company Commander or platoon
21 leader or any of that, did you ever have Soldiers who were -- you
22 know, got angry at you?

23 A. Sure.

1 CDC[MR. COOMBS]: Relevance, Your Honor.

2 MJ: Yes. Overruled.

3 **Questions continued by the assistant trial counsel [CPT MORROW]:**

4 Q. Soldiers ever get angry with their squad leader or team
5 leader or their Company Commander, anything like that?

6 A. Yes.

7 Q. Is that, you know, an outburst of anger is that generally a
8 reason for a derogatory -- initiating derogatory action?

9 A. That by itself, not at all.

10 Q. And why is that, sir?

11 A. Well, I mean, you just think about it. In anybody's daily
12 life, whether you're in the military or not, somebody in the
13 workplace having an anger outburst, I mean, how often does that
14 happen? You know, its context. So somebody getting upset about
15 something by itself, there are so many tools that in a leader's kit
16 bag to handle that particular kind of a thing that, you know, it has
17 to pass a threshold of some kind of behavior of that individual
18 incident or some pattern that's developed over time that would cause
19 a leader to do something that would result in a DEROG.

20 Q. And, sir, why do leaders need to use every tool in their
21 kit bag in order to deal with -- why do we invest time and energy in
22 Soldiers?

1 A. That's what the Army is. I mean, in the end of the day,
2 you know, if you talk to the Chief of Staff on down the Army is
3 people. And so we're in the business of growing and developing
4 Soldiers and leaders to -- for the long haul and to be prepared for
5 the next level of responsibility and leadership. So we're not in an
6 environment of somebody made a mistake, kick them to the curb. It's
7 the exact opposite. Our job is to understand them, find out what's
8 making them tick, help them develop themselves to the next level, and
9 grow as humans and as Soldiers. I mean, that's what our whole
10 profession's built upon.

11 Q. And sir, how does behavioral health treatment play into
12 that?

13 A. Well, today right now resiliency and readiness are a huge
14 campaign across the Army. And it's not a new thing, it just has
15 added attention and energies. Because we've been at war for such a
16 long period of time and we've seen, as you'd expect, more behavioral
17 health challenges across the formation. When we were deployed we had
18 behavioral health teams embedded in our formation. They were part
19 of that 4,000 Soldiers that were downrange. And what they did is
20 they rotated around to all the combat outposts and forward operating
21 bases on a daily basis and linked up with First Sergeants and Company
22 Commanders and said, "Hey, we're the behavioral health team, we're
23 here if you've got anybody that wants or needs to see us." And those

1 were announced in our daily -- we do a daily tasking order/operations
2 order that publishes things that are happening throughout the
3 formation. So units would know in advance when these folks would
4 show up and that's why we mentioned the 24 Commander for behavioral
5 health folks. There were 300 some folks that took advantage of the
6 behavioral the health team when we were downrange. For everything
7 from things like tobacco cessation and sleep problems, to, on the
8 higher end, suicidal ideations or other stressors that may be going
9 on in their lives that were causing them to have issues that they
10 were seeking counsel for. So we put a huge amount of energy into
11 services for Soldiers with varying behavioral health challenges and
12 issues.

13 Q. Sir, at any point, and I'm talking early in deployment now,
14 were there any suicides in the brigade?

15 A. We had three suicides, two deployed and one in the rear.

16 Q. And, sir, at any time did you initiate a -- sort of a
17 survey ----

18 A Yes.

19 Q. ---- of the command?

20 A. We initiated a -- what I call the 100-day review.

21 Q. Can you describe that for the Court please, what that was?

22 A. So in light of these suicides and a concern that if you've
23 got three suicides who else -- who knows what else below the level of

1 a suicide is brewing in the formation. I, with the consultation of
2 my Sergeant Major, wanted to get a better understanding of what was
3 the health of the formation. And I mean the mental, spiritual,
4 physical health of the formation. And so ----

5 Q. And this is 100 days into the deployment, sir?

6 A. Right.

7 Q. Okay. Go ahead.

8 A. So 100 days in and then in the aftermath of the most recent
9 suicide I was thinking about it and how can we, you know, make sure
10 that we don't have a climate or conditions that were contributing to
11 this. Because every life is obviously critical and valuable, but
12 also there's an impact on the tone and mood of the whole formation.
13 So the purpose was to -- I pulled in the Brigade Surgeon and all the
14 physician's assistants. I pulled in all of the equal opportunity
15 reps. I pulled in all of the behavioral health specialists and a
16 number of other folks that had a role in -- the chaplains, all of the
17 chaplains were pulled in and all of the Command Sergeant Majors. And
18 I said, "Hey, I wanted to come up with kind of a way of pulsing the
19 formation to find out their -- how well Soldiers feel about
20 themselves, how well they the understand their job, the linkage of
21 their job to the mission of their small unit, the linkage of their
22 small unit to the overall mission."

1 Q. And why is that important, sir? The linkage of the small
2 unit to the overall mission, the Soldier on the ground, the overall
3 mission?

4 A. Well, this is where self-worth comes from. Do you believe
5 that what you're doing every day has a purpose and it matters, okay?
6 So if you can make that connection from what I do every day and how
7 it relates to the mission and how if I don't do my job the mission is
8 not going to happen and if I can understand the importance of the
9 mission, not just the small unit, but all the way up national
10 security and preserving America's way of life, if you have that
11 linkage that's one of the categories that will help you have a
12 balanced mental, physically, and spiritual sense of self. It's not
13 the only one. You've got family and all of those other things that
14 go along, but that's one that we can help influence through active
15 leadership. So we wanted a sense and we did this by going out and
16 developing a list of questions that we did small unit discussions
17 across ----

18 Q. How small a unit, sir?

19 A. Platoon size.

20 Q. Okay.

21 A. And so those folks broke out and over the next 30 days they
22 went out and did all these sessions with the Soldiers. There was
23 also a questionnaire that went with it, but it wasn't part of the

1 interview sessions. The questionnaire came back through the doctors
2 channels. So then we would get a read for how the group's feeling
3 for that level and get a general read back it. They had a secondary
4 task of, just based on their own experience and knowledge, sensing if
5 anybody in that particular group seemed to be kind of on the
6 periphery, if you will, a little bit out from the group norm, in any
7 kind of behavioral manner whatsoever. And all I wanted them to do
8 was if they saw that was just to give that information to the
9 battalion level leadership so that they could follow up and just see
10 if there's anything behind the observation that this person needed.
11 Just as another check to make sure we weren't letting folks who might
12 need some assistance get that help. So we put that review into place
13 and ran that through in that 100-day mark to kind of get a read on
14 how the formation was doing.

15 Q. And, sir, is that 100-day review, or 100-day survey, is
16 that something you've seen in other units or anywhere else in your
17 time in the Army?

18 A. I have not actually. I don't know that other units may
19 have - not have done something similar. What I didn't want to do is
20 just do one of the standard, everybody do the EO climate survey where
21 you get these list of 40 questions, you fill out the A through D, yes
22 or no, how do you feel kind of thing and then turn it in. I wanted

1 something more personal in nature to get the -- all the reads you get
2 from the personnel contact with people.

3 Q. Sir, I want to finish by just asking you about your
4 experience with PFC Manning prior to the deployment. Did you have
5 any -- at any opportunity to interact with PFC Manning prior to the
6 deployment?

7 A. There were the couple of briefs he did to the command
8 group. Prior to deployment we were doing our -- I think as part of
9 the Global Response Force Mission actually, and we were doing our
10 operations and intel updates to maintain situational awareness across
11 the globe.

12 Q. And so, in those opportunities to have sort of a personal
13 interaction with PFC Manning, what were your impressions of him?

14 A. My impression of that he seemed pretty squared away. These
15 were snapshots, articulate, and had a pretty good understanding of
16 the information -- the information that he had, I think he had a way
17 to go with the analysis piece, but that's what I would have expected
18 from that that level of experience.

19 Q. Give me one second, sir.

20 ATC[CPT MORROW]: No further questions. Thank you, sir.

21 CDC[MR. COOMBS]: No redirect ----

22 MJ: Mr. Coombs?

23 CDC[MR. COOMBS]: ---- Your Honor.

1 MJ: All right. Colonel Miller, I just have a couple of
2 questions.

3 WIT: Yes, ma'am.

4 **EXAMINATION BY THE COURT-MARTIAL**

5 **Questions by the military judge:**

6 Q. Very early in your testimony I believe you said that you,
7 in order to separate somebody for mental health reasons you needed a
8 chop by a doctor saying that this is appropriate.

9 A. To redeploy them from theater ----

10 Q. Yes.

11 A. ---- I would require that there's a doctor's recommendation
12 in that packet.

13 Q. So for other -- did you have discretion for other non-
14 mental health related causes to just say if the command says, "You
15 know, I just don't think this Soldier needs to be here," for any
16 number of reasons, did you have discretion to say, "I agree, I'm
17 going to redeploy the Soldier?"

18 A. Technically, yes. Because commanders override pretty much
19 applies to pretty much anything. But that's something to be very,
20 very careful about doing without linking it to some kind of
21 requirement or regulatory piece, but, yes.

1 Q. Did you have discretion to override a recommendation from a
2 mental health provider that says, "He's fine to stay here in a
3 deployed environment?"

4 A. Yes. I believe we did. Although that probably would have
5 brought a lot of scrutiny.

6 Q. So the rear detachment that you also testified about, do
7 the units get reserve backfill for that or ----

8 A. No.

9 Q. ---- is it completely out of hide?

10 A. There's no backfill at all for those. The only reserve
11 backfill for the rear detachment is that the division level. The
12 Senior Commander for an installation, the past few years, has been a
13 National Guard Army Reserve Brigadier General.

14 Q. And that doesn't trickle down?

15 A. No.

16 MJ: Any follow up based on that?

17 CDC[MR. COOMBS]: No, Your Honor.

18 MJ: Temporary or permanent excusal?

19 CDC[MR. COOMBS]: Permanent, Your Honor.

20 MJ: Any objection.

21 ATC[CPT MORROW]: No, Your Honor.

22 Well, sorry, give me one second.

1 MJ: All right. Why don't we do this? We'll just -- we're
2 going let everybody leave, but we will just temporarily excuse the
3 witness.

4 **[The witness was temporarily excused, duly warned, and withdrew from**
5 **the courtroom.]**

6 CDC[MR. COOMBS]: Ma'am, if we can take a 10-minute comfort
7 break and then we'll call Lieutenant Colonel Kerns.

8 MJ: Any objection?

9 TC[MAJ FEIN]: No objection.

10 MJ: The court is in recess until 1135.

11 **[The court-martial recessed at 1126, 12 August 2013.]**

12 **[The court-martial was called to order at 1138, 12 August 2013.]**

13 MJ: Please be seated. Court's called to order. Let the record
14 reflect all parties present when the court last recessed are again
15 present in court.

16 Mr. Coombs?

17 CDC[MR. COOMBS]: Yes, Your Honor. The defense calls Lieutenant
18 Colonel Brian Kerns.

19 **[END OF PAGE]**

20

1 LIEUTENANT COLONEL BRIAN KERNS, U.S. Army, was called as a witness
2 for the defense, was sworn, and testified as follows:

3 DIRECT EXAMINATION

4 Questions by the civilian defense counsel [MR. COOMBS]:

5 Q. Sir, if you would please take a seat. I want to start off
6 by talking to you about your duty position in the 2009/2010 time
7 frame. What was your duty position at that point?

8 A. I was the Executive Officer for the 2nd Brigade Combat
9 Team.

10 Q. And how long were you the Brigade XO?

11 A. Well I think for the total amount of time, you know,
12 somewhere between 18 and 24 months. I took the job the summer before
13 the deployment, roughly the May/June time frame, and extended all the
14 way through the deployment. When we got back we switched out in
15 October. So I guess it would have been 18 months.

16 Q. May/June time frame of 2009 ---

17 A. Yes.

18 Q. ---- to October ----

19 A. To October of 2010, that's correct.

20 Q. Now, I want to ask you a few questions about, from your
21 perspective, the brigade's guidance regarding selecting those members
22 who would and would not deploy with the brigade, okay?

1 A. When you say -- are you talking about non-deployable
2 Soldiers? Is that your question?

3 Q. Correct.

4 A. Well then, you ----

5 Q. And so I'll just ask you some questions ----

6 A. Okay.

7 Q. I was just got to say ----

8 A. I got you. Okay. I'm sorry

9 Q. I'm going to ask you some questions about that.

10 A. All right. Sure.

11 Q. What guidance did the brigade give, from your perspective,
12 of who would not deploy, the non-deployables?

13 A. Who would not deploy? Well, it's been a while.
14 Essentially we went straight off of Army regulations. So, you know,
15 there was guid -- you know, the big things were medical -- you know,
16 there's obviously a lot of different rules for who would deploy and
17 not deploy, but essentially that's all governed by Army regulations
18 and, you know, medical standards and whatnot. So the guidance is
19 simply, you know, if they meet medical standards they deploy, if they
20 don't they don't. It was, you know, same thing goes for legal and
21 those type of things. So we didn't offer anything that was contrary
22 to what our -- the guidance that we were getting from the Department
23 of the Army was.

1 Q. So if the chain of command wanted to leave someone back due
2 to a performance issue or believed that they were unfit for the
3 deployment duty, what would -- what did they need to do?

4 A. Just like in any case, you know, they would have to be a
5 counseling packet, you know, a pattern, you know, of showing, you
6 know, why. So it -- so they -- so it had to have been substantiated.
7 You know, it couldn't just be, "Well I don't feel like this guy can
8 deploy." So they had to show cause, essentially, why they're not
9 deploying. So if they were, for example, a chapter case then there
10 would have to, you know, and they initiate the chapter and then there
11 would have to have be a counseling packet that would go with that
12 would be worthy of chaptering that Soldier.

13 Q. So if you didn't have a chapter packet, am I understanding
14 you correctly, that if the command simply said, "We didn't -- we
15 don't feel like deploying this guy because we don't believe he should
16 deploy," without some sort of supporting documentation would that be
17 supported by the brigade or not?

18 A. Well, you know, that's always -- when you say, "Supported
19 by the brigade," that's the Commander's call. So that's the decision
20 between the Battalion Commander and the Brigade Commander, and you
21 have -- you know, some of those discussions are one-on-one. So I
22 wouldn't be privy to that.

23 But in terms of the guidance, you know, it was, "Okay. We

1 look at a packet," again depending on what the stature of that was
2 and does it meet the conditions in accordance with Army regulations
3 or whatever guidance had been put out by higher headquarters. If it
4 met that guidance then we would tell a unit, "He's non-deployable,"
5 and they don't deploy. If not, then certainly the Commander has
6 discretion and that would be a call between, you know, the
7 subordinate Commander and then Colonel Miller. He would have been
8 the one to make that decision. Albeit though, that the guidance is -
9 - pretty much we go along with, you know, the standard guidance we go
10 along with whatever the factors were for that specific condition
11 which, you know, there's a myriad of them, hundreds of different
12 cases where that might be.

13 Q. And just to make sure I understand you then, if I as the
14 Company Commander came to battalion and then Colonel Miller and said,
15 for whatever reason, "I don't believe this Soldier should deploy."
16 Colonel Miller could make that determination to say yes or no?

17 A. You know, I don't -- I'm not sure I can answer that
18 question right now because without -- there's so many different
19 factors involved there.

20 Q. I guess what I'm getting at is, did Colonel Miller have the
21 final say, yes or no, or did someone above him have the final say?

22 A. Again, there's so many different situations involved there.
23 In some cases he doesn't have the say. Because, for example, if a

1 medical officer says someone is non-deployable then he has no choice
2 but to go with what that individual is saying. You know, it's been a
3 few years. So without going back and understanding what has -- there
4 are just so many different options out there that it would be really
5 hard for me to say. You know, to say he's the final authority would
6 be inaccurate. Because there are a lot of different factors involved
7 with deployable and non-deployable Soldiers in determining who was
8 deployable and who was not, and you run through each case
9 individually to determine, you know, if you think it's warranted or
10 not for that Soldier to deploy or not deploy based on, you know, the
11 rules. Some of those rules are up to interpretation, obviously, you
12 know, whether or not they meet the conditions for a chapter, for
13 example, or that kind of thing, those are sometimes, you know,
14 judgment calls, I suppose. But at the end of the day, you know,
15 there would have to be grounds for it. There would have to be a
16 counseling packet or a file of some sort. You know, I would say with
17 relatively certainty that there's almost no situation where a
18 Commander is just going to come and say, "Hey, I don't think this
19 guy's going to deploy." It would have to have been substantiated
20 with some type of documentation that comes forward so Colonel Miller
21 could look at it and say, "Yes, I agree with your assessment." But if
22 you just come to me with, "Hey, I don't think this guy can deploy," I
23 would find it hard to believe that Colonel Miller would approve

1 something like that. There was quite a bit discussions back and
2 forth for, you know, for all of these cases. As we led up to
3 deployment we spent quite a lot -- we put quite a lot of effort into
4 looking at these cases and trying to adjudicate who should and
5 shouldn't in some -- you know, so there's a lot of mental effort put
6 into it. But, you know, I'm going back 3 years ago. I'm not sure I
7 can say definitively that, you know, that was the case.

8 Q. Did anyone above Colonel Miller have to approve of a non-
9 deployable -- if Colonel Miller thought that person shouldn't be
10 deployed?

11 A. Not that I'm aware of. I don't remember anybody -- there
12 was certainly never a situation where someone came in and said, "No,
13 this person is not doing to deploy." So there was never anything
14 from above us telling us to deploy somebody or not deploy somebody,
15 it was, you know -- that I can recall.

16 Q. The Brigade S-2, prior to the deployment, was that Major
17 Clausen?

18 A. That's correct.

19 Q. And was the Brigade NCOIC for the S-2 Section Master
20 Sergeant Adkins?

21 A. Yes, that's correct.

1 Q. From your position, did Master Sergeant Adkins or Major
2 Clausen ever make a recommendation to you regarding whether or not
3 PFC Manning should deploy?

4 A. No.

5 Q. From your perspective, was there any pressure placed upon
6 the S-2 section to deploy somebody that they feel shouldn't deploy?

7 A. None.

8 Q. Had Major Clausen or Master Sergeant Adkins raised a
9 concern to you about whether or not PFC Manning should deploy, how
10 would that normally be handled?

11 A. Well, honestly, so as the executive officer I was not --
12 they had it so the HHC for the brigade, the Brigade HHC Company under
13 -- in terms of their chain of command, actually fell under Colonel
14 Walters, Lieutenant Colonel Walters at the time, now Colonel Walters,
15 who was the Battalion Commander. So technically all of those cases,
16 you know, the chain of command actually went from the section, to the
17 Company Commander, to the Battalion Commander. While I would be
18 involved in those discussions because obviously any impacts on the
19 staff impacted our ability to accomplish our mission, ultimately the
20 decision to deploy or not to deploy a Soldier or to recommend non-
21 deployability of a Soldier would lie to the chain of command. While
22 I was the supervisor of Major Clausen at the time, I technically
23 didn't have the authority of a Commander. So the command authority

1 resided within the battalion level command authority, the O5 command
2 level authority, resided in the BSTB Battalion, which was Lieutenant
3 Colonel Walters at the time. So they would have discussed it with me
4 if there was a -- but, as I said before, at no time was there a
5 discussion about from, what I recall, of not deploying Manning at the
6 time.

7 Q. And you had mentioned that you supervised Major Clausen?

8 A. That is correct.

9 Q. And obviously then you had an opportunity to view his duty
10 performance?

11 A. That is correct.

12 Q. And what type of duty performance was Major Clausen?

13 A. Ma -- you know, if I had to characterize, he was a very
14 hard worker. He was very conscientious. You know, I thought he had
15 -- he was an intelligent individual, but at the same time his skills
16 were not quite up to what we are looking for a Brigade S-2 deployed
17 in combat. He was unable to articulate the intelligence situation
18 and have a cogent conversation with the Brigade Commander that the
19 brigade command was looking for. So, therefore, you know, I thought
20 that his performance fell below standard. You know, he wasn't
21 horrendous, but I felt like he wasn't quite up to the task of being a
22 Brigade S-2.

1 Q. And was it your opinion that Major Clausen was a weak
2 leader?

3 A. I've said that in the past. You know, I used the term,
4 "Weak leader." You know, and at the time it's -- that's a hard
5 characterization of Major Clausen. I thought his leadership could
6 have been stronger, certainly, you know, the circumstances of being
7 deployed in combat meant that we were looking for, you know, very
8 strong leaders. So I probably made that statement in the past, and I
9 think his leadership could have been better in the shop, yes.

10 Q. And was that actually your opinion, that he was a weak
11 leader?

12 A. That was an opinion, yes.

13 Q. Did -----

14 A. But, you know, I got to characterize that a little bit
15 though. Again, if you're looking at the standards that we're
16 achieved -- or applying towards that position, you know, I'm applying
17 a very high standard towards what we're looking for there because of
18 the circumstances being deployed in Iraq. You know, quite frankly
19 have we just been in a garrison environment and never deployed, you
20 know, Major Clausen's performance would have been adequate to sustain
21 himself, but in combat we were looking for we're looking for, you
22 know -- we're making decisions that impact Soldier's lives out there.
23 So if we feel like the leadership -- you know, we can get better

1 leadership someplace else, then we're going to make decisions to get
2 the best leadership in those positions as possible. So when I say,
3 "Weak leadership," you know, again under normal circumstances in
4 garrison environment, you know, his performance prob -- would have
5 been good enough to sustain him, but in combat we are looking for
6 somebody who had better leadership skills. And so that's why we made
7 the choice we did.

8 Q. Recognizing that he was not a strong leader, did you put
9 effort into counseling him and providing oversight?

10 A. There was quite a bit of development and we took some
11 steps. You know, for myself personally, I did counsel him. He was
12 also provided counseling from Colonel Walters who is also another
13 Military Intelligence Officer. We also took some steps to put
14 stronger leadership within the S-2 shop. And one of those being
15 Captain Lim who was the -- my Co-Company Commander at the time. So
16 when we knew he was a very strong leader. So we increased his role
17 as a part of the Brigade S-2 Section and then, you know -- and we
18 made some moves to help strengthen the leadership within the shop.

19 Q. And did you ever have the opinion that he tried to
20 decentralize operations but didn't have enough oversight to the
21 control within the S-2 Section?

22 A. That -- I know I made the statement during the 15-6
23 investigation. You know, looking back and trying to characterize

1 that, you know, we -- everything we do essentially is decentralized.
2 So to say, "Did he not have enough oversight," you know, at this
3 point, I'm not sure that I can say that from my vantage point within
4 the shop itself.

5 Q. Did you have the opinion though, based upon what you saw at
6 JRTC, that ideally you would have replaced Major Clausen prior to the
7 deployment?

8 A. If we'd had a -- honestly, yes. If we'd had a better
9 option at the time, we would have gone with that option, but we did
10 not. So, you know, -- and there's also, you know, like with any
11 subordinate, you know, you're always trying to develop those
12 individuals. So we didn't want to just throw Major Clausen under the
13 bus, so to speak. We wanted the opportunity to help develop him
14 further. We didn't feel like -- at the time we felt like there was
15 still an opportunity to develop him and get him ready for deployment.
16 So we made the conscious decision to move forward with Major Clausen,
17 you know, using those mitigating factors that I talked about, you
18 know, with increased supervision, with increased leadership within
19 the shop, to move forward and allow him to be the S-2 within the --
20 you know, to start the deployment off and make a determination later
21 on if we felt that he wasn't up to the standards.

22 Q. And did you also have an opportunity to view the duty
23 performance of Master Sergeant Adkins?

1 A. Not as much -- my interactions with Master Sergeant Adkins
2 were limited because that was -- his NCO functions. My primary
3 responsibilities, you know, were to supervise Major Clausen, so I
4 did, but not in quite the same manner as Major Clausen.

5 Q. Did you also make the determination that Master Sergeant
6 Adkins was a weak leader?

7 A. You know, from my, you know, limited assessment, you know,
8 limited ability to see him, I'm not in his shop, I can't see what
9 he's doing with the Soldiers. I mean, honestly, that's where the
10 ultimate determination would come from, but, you know, I didn't feel
11 that -- I didn't have overwhelming confidence in Master Sergeant
12 Adkins' either.

13 Q. And so did you make the determination previously that he
14 was a weak leader?

15 A. I've said that in the past. Again, that was a pretty harsh
16 statement. And when we were doing the 15-6 we were -- you know, we
17 were being over -- probably overly critical of ourselves, but I
18 definitely made that statement. But, you know, again, kind of
19 looking back reflecting on it, you know, my level of interaction with
20 Master Sergeant Adkins was not -- my direct involvement with him was
21 not -- while I saw him a lot, it wasn't -- I wasn't a direct
22 supervisor to him necessarily. So my characterization of him might
23 be a little terse and maybe would need a little -- you know, somebody

1 with a little more direct knowledge of his actual duty performance
2 and leadership capabilities.

3 Q. Being the supervisor of Major Clausen, were you aware of
4 how the leadership of those in the S-2 section was handled, as far as
5 the leadership chain?

6 A. I -- no, I didn't delve into the day-to-day operations of
7 the shops. You know, that fell upon the OICs and the NCOICs. I
8 understood how the shops were organized, but, no, I did not get into
9 the functions of how they managed their Soldiers or how they led
10 their Soldiers or how they delegated duties within the shops.

11 Q. At any time did anyone within your brigade complain about
12 Master Sergeant Adkins striping supervisors of their ----

13 A. Not while I was ----

14 Q. ---- authority?

15 A. Not -- I -- you know, I found out about that after I
16 redeployed. I've never had anybody coming to me during -- while I
17 was actively the XO of the brigade and say anything like that to me.

18 Q. All right. So just do make sure I understand then, during
19 the deployment, and I guess until after the deployment, you didn't
20 have any complaints to you from anyone within the S-2 Section about
21 the leadership style of Master Sergeant Adkins?

22 A. Not that I'm aware of, no. I can't -- I don't recall
23 anybody coming to me and saying, you know -- that they, you know -- I

1 know -- I mean, I can say there's the typical grumblings of, you
2 know, "Master Sergeant Adkins did this or that," but no one directly
3 came and said that, you know, "This is how he managed the shop and we
4 feel it's wrong." I don't recall anyone ever coming to me and making
5 that type of statement.

6 Q. And then if I understand you correctly, you recall those
7 type of statements after the fact?

8 A. Well, you know, as a matter of the 15-6, the investigator
9 of the 15-6 told me -- he told me certain things that came out during
10 the 15-6 so -- and I've since read the statements that came out in
11 the 15-6. So I have a privy of seeing statements that individuals
12 within the 2 shop made that I wasn't privy to before or during
13 Manning's tenure at 10th Mountain.

14 Q. Did anyone after the fact actually make complaints to you?

15 MJ: After the fact of ----

16 CDC[MR. COOMBS]: After the deployment, ma'am.

17 **Questions continued by the civilian defense counsel [MR. COOMBS]:**

18 A. Make complaints? I don't recall anybody making a complaint
19 to me. You know, again, I recall being told that this is how things
20 were done. But I don't remember any -- you know, I don't remember
21 anybody coming to me and saying, you know -- well, you know, I guess,
22 you know, again I'm trying to think back on and how to characterize
23 that. Again, I -- you know, complaints in the Army come every day.

1 So when you say, "Complaints," no one ever made like a formal
2 complaint. I certainly may have in conversation talked to somebody
3 and they said, "Well I didn't like this or I didn't like that." So,
4 you know, there were other leaders that were strong leaders within
5 the shop, so they may have had strong opinions about the way things
6 were run. But no one ever came to me with, you know, a formal
7 declaration of, "This is how things were done, and we don't think
8 it's right."

9 Q. Did you believe, prior to the deployment, that Master
10 Sergeant Adkins should not deploy as the NCOIC for the S-2?

11 A. I don't recall ever thinking that he shouldn't deploy. I
12 don't remember that being part of the conversation. I would have
13 preferred to have stronger leadership, but I don't recall ever
14 telling anybody that.

15 Q. I'm handing you what's been marked Defense Exhibit Lima-
16 Lima-Lima for Identification. If you would just take a look at that
17 and when you're done just look up at me?

18 **[The witness did as directed.]**

19 A. It says, "Ideally, the S-2 and NCOIC" ----

20 Q. Well, no -- just look at me when you're done looking at
21 that.

22 A. Okay.

23 Q. Do you recognize what this is?

1 A. I do. This is my rebuttal to the letter of reprimand that
2 I received for -- during -- from the 15-6 investigation.

3 Q. And so this is something that you wrote; is that correct?

4 A. It is correct. These are my words.

5 Q. And in that did -- do you see where you reference that your
6 belief was he shouldn't have deployed as the ----

7 A. Well, I didn't ----

8 Q. ---- S-2?

9 A. ---- I said, "Ideally, we would have had somebody," -- I
10 mean, ideally, the S-2 and NCOIC should not have deployed in their
11 respective positions. But again, that's, "Ideally." I didn't say,
12 "They shouldn't have," I said, "Ideally, we would've had some --,"
13 and you know, when you put it in context, ideally, I would've had
14 somebody that was better, but that doesn't mean that they weren't
15 suited for the positions they were in at the time. So, ideally,
16 would I've liked to had a stronger S-2 and NCOIC team? Absolutely, I
17 would've liked to have had a stronger team. You know, so again, to
18 kind of characterize that, it doesn't mean that their duty
19 performance ever fell below the standards or would've said that they
20 should have been relieved. I don't believe that their duty
21 performance ever fell that low of a level. I feel that what I wanted
22 was the most competent leadership that I could possibly have. The S-
23 2 section is, again, one of the -- is a very critical component to

1 fighting counter-insurgency because of what we're doing out there.
2 So ideally, I would have had -- yes, ideally, I would have had, you
3 know, stronger leadership within those sections. But at the same
4 time, you know, there was never -- and while there were discussions
5 about Major Clausen there was never a discussion beforehand whether
6 or not Master Sergeant Adkins should be removed from that position.
7 None that I can ever recall having before that. But after the fact,
8 looking back, you know, would I -- I would say that, ideally, I would
9 have liked to have stronger leadership in there. But that doesn't
10 mean they weren't qualified to be in the position that they were in.

11 Q. And do you recall stating that whenever you had an issue in
12 the S-2 area you would go not to Master Sergeant Adkins but then to
13 Staff Sergeant Balonek?

14 A. Sergeant Balonek was a very competent, strong NCO within
15 the section and I felt that sometimes when I need quick action on
16 things that he was the individual I could go to. He was kind of a
17 go-to guy within the shop. And, you know, just like -- but that's
18 not untypical because, you know, if Master Sergeant Adkins is not
19 around I'm going to go not to the next person around. I'm going to
20 go to the next person in line and talk to him. Just like I
21 frequently talk to the Ops Battle Captain or the Ops NCO, if there's
22 something happening, then I'm going to talk to the nearest
23 individual. And Sergeant Balonek was an individual I felt that was

1 very competent within the shop and if I needed something I could get
2 it done with him. And so, yes, I did often go to Sergeant Balonek,
3 now Mr. Balonek.

4 Q. Do you recall saying that, "Staff Sergeant Balonek was the
5 lone strong NCO, the only good experienced NCO in the shop, from my
6 perspective?"

7 A. Yeah, he was. He was -- again, the key term there is
8 experience. You know, because I had been on deployment with Sergeant
9 Balonek before. Sergeant Balonek and I had worked together in 2006
10 and 7 while I was the Chief of Operations for Brigade Combat Team and
11 he was an Ops Battle NCO. And so, you know, for me, I had kind of a
12 personal relationship with him and a professional relationship where
13 I had worked with him and I knew his ability. So I was very
14 confident in him because of the time I spent with him in Iraq in 2006
15 and 7 and I was never confident in his abilities. And I felt that
16 his experience in the shop and the things he had done set him apart
17 from the other non-commissioned officers. We did have a pretty
18 junior S-2 shop at the time because we put all -- we intentionally
19 put our stronger folks into the battalion so they would have the key
20 people down there.

21 Q. Were you ever made aware, at any point during the
22 deployment, of any memorandums for record that Master Sergeant Adkins
23 wrote concerning PFC Manning?

1 A. Not that I can recall, no.

2 Q. Have you ever seen any memorandums for record that Master
3 Sergeant Adkins wrote concerning PFC Manning?

4 A. At this point I don't recall any. You know, the 15-6 was
5 huge. So it's possible it was in as part of that, and I may have
6 read it at that point. I just don't remember seeing it.

7 Q. Now as the XO you were part of the command that was --
8 command group that was briefed on all of DEROGs; is that correct?

9 A. Partly -- I guess the answer to that -- well not
10 necessarily, no. You know, we -- was I part of that process, yes.
11 But that doesn't mean I necessarily received a formal briefing on
12 that or anything like that, so ----

13 Q. Did the brigade keep track of who had a DEROG initiated
14 against them? Was that something that was briefed?

15 A. Well, you know, as I stated -- you know, I believe that,
16 you know, after the fact, after learning what was going on that we
17 probably needed to tighten our standards up on our tracking systems
18 for DEROGs. So prior to the release of the information in the
19 Manning investigation it was not something that I had put a lot of
20 attention into and so after that, you know, I took specific actions
21 within the staff to improve our systems and made some recommendations
22 in order to make sure that we were in compliance with Army
23 regulations.

1 Q. And based upon your understanding, at what point by Army
2 regulations should a DEROG be initiated?

3 A. Well, adverse action being the key one. So whenever
4 there's an adverse action taken against a Soldier that's the main
5 factor. So an Article 15 or, you know, or something like that then
6 you would -- you initiate that process or, you know, accused of a
7 crime or something like that.

8 Q. And if a Soldier with his security clearance commits a --
9 say an act of violence against another Soldier, would that be a basis
10 for the DEROG?

11 A. It would be the basis for starting a DEROG. It doesn't
12 necessarily mean that they would remove somebody's security
13 clearance. Initiating a DEROG means that they are going to review to
14 see if the circumstances warrant removing the security clearances.
15 We don't, you know -- so that would be sufficient reason to initiate
16 a DEROG. You know, with an Article 15 that goes with it. You know,
17 if there was an Article 15 then that would be sufficient reason to do
18 that, that's correct.

19 Q. And, again, for a DEROG just the fact that you initiate it,
20 does that mean that a Soldier's going to lose his or her security
21 clearance?

22 A. My -- you know, I'm not an expert in that process, but my
23 understanding is no, because it's essentially kind of like a learning

1 those who make decisions about security clearances so they can make a
2 determination whether or not this person presents a risk of releasing
3 classified information.

4 Q. Would it be fair to say then that a DEROG is just paperwork
5 trail about a particular individual that individuals were making
6 determinations on security clearances can see what's happened in the
7 past?

8 A. Yes.

9 Q. Now who is responsible for initiating the DEROG?

10 A. Typically the Company Commander of the -- I believe it's
11 the Company Commander. Again, I'm not an expert in the process, so I
12 believe it's the Company Commander.

13 Q. And in the December 2009 time frame was Major Dreher the
14 Company Commander?

15 A. He was.

16 Q. For PFC Manning?

17 A. He was.

18 Q. And during the deployment, am I correct that both Major
19 Clausen and Major Dreher were removed from their respective
20 positions?

21 A. Well, yeah. Major Dreher was, but that was for supply
22 accountability reasons and it was -- yes, so, yes.

1 Q. Now I want to ask you a few questions about information

2 assurance within the brigade. Okay?

3 A. Okay.

4 Q. Did Captain Cherepko ever come to you with concerns of

5 unauthorized media ----

6 A. He did.

7 Q. ---- on T-drive ----

8 A. Yes.

9 Q. ---- and SIPRNET?

10 A. Yes.

11 Q. And when, from your memory, was that? I know it's been a

12 while, but ----

13 A. It was prob -- you know, it's really hard for me to
14 remember that. Maybe a couple of months into deployment. You know,
15 Cherepko didn't deploy with us right off the bat. He was a little --
16 I think he got -- he kind of hit the ground right when he got there.
17 So I don't remember the exact time frame, but a couple months in
18 maybe.

19 Q. And what, in generally, were Captain Cherepko's concerns?

20 A. The primary concern was to the introduction of viruses on
21 to our network. So the issues were never related to, you know,
22 people getting information off of the networks. The problem was is
23 that by putting software onto the network, putting media on to the

1 network, then you were led to potential of having a virus on to the
2 networks, which could interrupt our operations. So the primary
3 concern is that there was some people playing games and stuff like
4 that and some of the things already existed on the networks, and so
5 we -- and so he was concerned with the fact that they could disrupt
6 our networks. Because a virus gets into our network and it impacts
7 our ability to, you know, command and control. And so we wanted to
8 make sure that our networks remained stable and viable for all of our
9 troops downrange.

10 Q. From your perspective, what did the brigade do in response
11 to Captain Cherepko's concerns?

12 A. Well we -- you know, our response was, first is to educate,
13 you know, to make sure that everybody understands what the standards
14 are. So initially I kind of came to the determination that Soldiers
15 quite -- weren't quite aware that just putting things like movies and
16 music and games onto the system were -- was not authorized. So we
17 had to make sure everybody understood. So we took actions to brief
18 everybody, make sure they understood the standards and then from that
19 point forward, you know, if -- and whatever system was felt to
20 compromised that system would be taken off the network. So
21 immediately if there was a computer that had something on it that was
22 unauthorized that computer would come off the network. This was --
23 at least this was a guidance that in this that we put out that it

1 would come off the network. It would be cleaned and wiped basically,
2 you know, doing whatever the Signal guys do to make sure that the
3 hard drive doesn't have any more unauthorized software on there. And
4 then it would be reintroduced back onto the network after it had been
5 certified by our signal folks. For the folks involved, you know,
6 first time offense would be counseling and then later on, you know,
7 if there's more than one offense then we, you know, I would -- it's
8 essentially up to chain of command what actions to take, but, you
9 know, one of the things that was potential was that they wouldn't be
10 allowed back on the network if there were multiple infractions of
11 that.

12 Q. And do you recall any instances in which that was the case
13 where they were not allowed to go back on the network?

14 A. No. There was never a chan -- there was never a time when
15 I was briefed that there was multiple infractions. There were
16 infractions that after that initial push to get everything cleaned
17 up, there are some individual infractions out there, and we dealt
18 with them on a case-by-case basis. But I don't -- there was never a
19 time where I thought -- there was never a time that it was brought to
20 my attention that there was multiple abuses to that and, theref --
21 that required anything beyond a simple counseling statement or
22 cleaning up the system.

1 Q. Now after PFC Manning was arrested, did Colonel Miller
2 order you to take a look at the info sec across the brigade?

3 A. Yes.

4 Q. And how did you do this?

5 A. We -- you know, I just took my subject matter experts
6 together. You know, for lack of a better term called it a, "Tiger
7 Team," you know, we used terms like that. You know, we grabbed a
8 group of subject matter experts that, you know, were from the S-2,
9 from the SIGO, automations, you know, non-commissioned officers to
10 look at, is it what -- you know, physically security. So we kind of
11 looked at, you know, a holistic approach to our information security,
12 both physical networks and those kind of things and to make some
13 recommendations on how to improve our systems within the brigade.

14 Q. And in general what did you conclude based upon your
15 review?

16 A. That there was a few recommendations that we made. The
17 recommendations, which a lot of them were completely unrelated to
18 what occurred here. Because honestly, most of them wouldn't have
19 changed anything. But, you know, we made recommendations to disable
20 DVD drives, for the write capability on them. We made
21 recommendations -- the DEROG process which is a recommendation that
22 we, you know, solidify our standard operating procedures for DEROGs.
23 There was some physical security means that we -- that I think we

1 looked at and improved upon, and there may have been some others that
2 I just don't recall right now. But I think the main ones were
3 probably the rewrite capabilities, the DEROG, and some physical
4 security measures, and there might have been more. I just don't
5 recall at the time.

6 Q. Okay. And I want to talk about one of those, the DEROG.
7 Did you develop a DEROG SOP?

8 A. We -- yeah, you know, we were on our way out of Iraq at the
9 time. So what we ended up doing was basically just re -- we didn't
10 really develop an SOP. We just kind of reasserted the Army standards
11 for the DEROG process and make sure that everybody understood what
12 those were. So that was -- I won't say that we developed our own
13 internal SOP, but we just kind of rehashed what the Army standards
14 were for that.

15 Q. In your review did you come to the conclusion that one of
16 the biggest failures was not properly initiating a timely DEROG in
17 this case?

18 A. Well, yes, but it didn't relate to law -- that law -- you
19 know, the DEROG process wouldn't have happened until April when
20 Article 15 happened. So the fact that I said that, "Doesn't mean
21 that it would have changed anything," that happened with the loss of
22 information. But it just -- you know, because when we -- I guess to
23 put the context of 15-6, I wasn't so much as worried about one

1 incident. I was looking at the brigade operations as a whole. So if
2 we found something, even if it had -- it was completely unrelated to
3 the information loss that we had that we were to take action on it.
4 So the DEROG -- I did feel that -- I looked at it as a personal
5 failure because it was something I hadn't really looked before, was
6 the DEROG process and make sure we were in compliance with it. So I
7 felt like, you know, this is an area that we need to tighten our
8 systems up with. Just because -- doesn't mean that it led to or
9 caused anything, but I did believe at the time that we could've --
10 you know, we needed to fix our systems. That was my job as a XO was
11 to make sure our systems were in place to run the brigade. So when I
12 looked at a system and I saw it was broken, whether it was, you know,
13 as a result of just looking at something we hadn't look at it before.
14 So yes, I did feel that at the time we were not -- because of all of
15 the things we did, you know, I felt most of them were justifiable.
16 But the one that wasn't justifiable was the fact that we hadn't taken
17 a harder look at the DEROG process.

18 Q. And from your perspective as the XO were you ever briefed
19 on any instances involving PFC Manning in December 2009?

20 A. I can't recall, no. You know, I -- well, you know, I'll
21 tell you the earliest recollection I have is when, you know, we were
22 taking actions to remove Manning from theater and, you know -- and
23 that packet kind of came forward, you know, because every -- all of

1 those packets -- anybody that's going to move theater has to go
2 through the Brigade Commander which means that I'm part of the
3 process, that, you know, I'm doing one of those checks. So I'm
4 checking, you know, and at that point, you know, it came forward, you
5 know, I -- it's been a long time. I remember having a discussion at
6 some point about what was going on with this and said, "Okay. Yeah,
7 that makes sense," and then push forward. I -- when that happened, I
8 don't remember the exact time frame of that.

9 Q. The -- What you just talked about there of a packet to
10 remove PFC Manning from theater, when was that?

11 A. Again, I don't remember the exact time frame. That -- you
12 know, it would have been, you know, a few -- several months into the
13 deployment. I just don't remember the exact timing of it.

14 Q. In 2010?

15 A. Likely, but I, again, I can't remember the exact time frame
16 of it. So I would -- I'd have to go back and look at it and see when
17 it was. Everything, you know, all this -- the deployments kind of
18 run together. So there's months in there I just don't recall.
19 There's a lot of actions going on. That's one of many actions that
20 goes forward. So I just don't remember the exact time frame of that.
21 I ----

22 Q. And I underst ----

1 A. ---- think it was, to be honest with you, I think it was
2 later than -- I don't think it was as earlier as December, but I just
3 don't recall exactly when the time frame was.

4 CDC[MR. COOMBS]: I understand. Retrieving from the witness
5 Defense Exhibit Lima-Lima-Lima for Identification.

6 No further questions, ma'am.

7 MJ: Cross-examination?

8 ATC[CPT MORROW]: Yes, ma'am.

9 **CROSS-EXAMINATION**

10 **Questions by the assistant trial counsel [CPT MORROW]:**

11 Q. One second sir.

12 **[There was a pause while the trial counsel conferred at the counsel**
13 **table.]**

14 Sir, I want to start with the statements that Mr. Coombs
15 discussed with you, the statements that you made previously. Those
16 are all statements made as part of the Secretary of the Army 15-6; is
17 that correct?

18 A. That's correct.

19 Q. And initially you were interviewed by like a lieutenant
20 colonel?

21 A. Right. So around -- I think it was in the January time
22 frame, I got called. I never actually did a sworn statement. I just
23 -- I was a telephonic interview. And the first one was by a

1 lieutenant colonel working for General Caslen and then later on about
2 2 weeks later there was a phone call from General Caslen and I spoke
3 with him. So in January, in the time span of about three weeks ----

4 MJ: Just a moment. Yes?

5 CDC[MR. COOMBS]: Just for clarification, the statement I
6 covered with the witness was his rebuttal statement, so not the 15-6
7 statement, and that's Defense Exhibit Lima-Lima-Lima for
8 Identification.

9 MJ: Why don't you look at Lima-Lima-Lima.

10 ATC[CPT MORROW]: I agree with that, but there were other
11 statements that he was were pulling that were otherwise.

12 MJ: During the oral conversation?

13 ATC[CPT MORROW]: Yes.

14 MJ: Okay. Go ahead.

15 **Questions continued by the assistant trial counsel [CPT MORROW]:**

16 Q. Just describe your interaction with the Secretary of the
17 Army 15-6, Colonel Kerns.

18 A. Describe my -- so again, they called to, you know, they
19 were -- obviously a 15-6 is the -- and, you know, I guess my -- you
20 know, I was in there trying to give opinions about what happened, how
21 the Army can do better in certain situations. But a lot of the
22 questions to me were unrelated to the incident itself. They were
23 looking at -- again, you know, I was a little bit frustrated with the

1 fact they're -- you know, we would say, "Well this really had nothing
2 to do with the incident," but yet they still dug into certain things.
3 So they looked at all of the operations of the brigades when it came
4 to information security, regardless of whether or not it was directly
5 related to the information loss or not. So when they -- if they
6 asked me a question, I mean, I answered it truthfully as I could.
7 But in a lot of cases I was answering things based on secondhand
8 information because I didn't have direct knowledge of certain things.
9 For example, you know, Master Sergeant Adkins -- you know, obviously
10 at that point I had been affected because I had read the file. You
11 know, I had saw the initial investigative file on PFC Manning. So a
12 lot -- and so my judgment was somewhat swayed by not firsthand
13 knowledge, but by secondhand knowledge, and so I was offering
14 opinions based on assessments made by other people.

15 Q. Right. You -- the 15-16 [Ssic] had a number of documents
16 in their possession and they were sort of asking you about, "Hey, if
17 you had known this at this time, ----

18 A. That's right.

19 Q. ---- would you have done?"

20 A. And I has -- and they referred to some of those documents
21 that I had already seen. So they -- I was able to see certain
22 documents, which -- so I was offering opinions not necessarily -- not
23 everything I was offering was direct knowledge of the incidents. It

1 was opinions about what happened. And, you know, from what I
2 gathered they were trying to get a sense of the systems within the
3 brigade and how we functioned. So they were kind of -- I thought
4 they were kind of systems approach focused. Which being the XO, I
5 can kind of give them context how everything within the brigade
6 operates and there were a lot of opinions that were asked of me.
7 And, again, a lot of things I didn't find out until after, you know,
8 the time frame of when the investigators came in and we got a call
9 from the DIA. It was, you know, they provided us with a packet of,
10 "This is what we're moving forward on." So I was able to read quite
11 a bit of stuff that I probably didn't have direct knowledge before
12 seeing that information or before talking to the 15-6. When the 15-
13 6, like you said, at times they would ask me questions about, "Did
14 you know this, did you know that?" My answer might be, "No, and
15 here's what I think of it."

16 Q. And, sir -----

17 MJ: Before you get there, you testified earlier that you did
18 something -- you had the interview in January, January when?

19 WIT: January 2011, ma'am.

20 MJ: Thank you.

21 **Questions continued by the assistant trial counsel [CPT MORROW]:**

22 Q. And both of the interviews were in January of 2011; is that
23 correct, sir?

1 A. That's correct.

2 Q. And, sir, how many times have you deployed?

3 A. To -- well, for OEF I've deployed three times. I've got
4 six total operation deployments in the Army.

5 Q. Did this brigade function any differently than any other
6 brigade that you'd ever been a part of in the Army?

7 A. Not, you know, not tremendously different, no. We fell
8 within, what I would consider to be, kind of the norms of brigade
9 combat teams.

10 Q. And, sir, stepping back for a moment, you talked about on
11 direct you discussed removing Major Clausen from his position. Major
12 Clausen, in your words, "Was sort of a weak leader," at least when
13 this was -- this after the fact look was instituted. But did he --
14 in your opinion, did he create a poor command climate?

15 A. No, you know, so, you know, cause you interview with --
16 leadership obviously is pretty broad based term. And, you know, so,
17 you know, if you go to the, you know, doctrinal definition of
18 leadership and you go to the Army doctrine publication 6-22, you
19 know, if I look at some of those leadership dimensions, you know, was
20 he weak in all of them, no. Some things he was very strong and some
21 things he was weak in. Of course, one of his weakest leadership
22 dimensions was his communication skills. He lacked -- what I saw in
23 him is he lacked confidence in communication skills, which impacted

1 his ability to directly communicate with the Brigade Commander. But
2 there was -- you know, we didn't, you know, I never saw what -- I
3 never physically saw and I don't believe it existed is like what I
4 would call like a toxic leadership environment. There was never a
5 point within his shop or within the S-2 Section that I felt that
6 there was like negative leadership applied. Where I say he was --
7 you know, his weak leadership, I mean, most of that interaction
8 occurred when he's dealing with the Brigade Commander and he's in
9 front of a large group and honestly his communication skills and his
10 lack of confidence, you know, two leadership dimensions that we value
11 people on, were not, you know, what you would want from a person
12 who's got has got to brief continuously and talk to some high level
13 individuals to include, you know, multi-star generals coming into the
14 Brigade Headquarters.

15 Q. So your observations of him were necessarily related to any
16 internal management of the shop?

17 A. No.

18 Q. And that would -- the same be sort of true of Master
19 Sergeant Adkins, what you learned about Adkins was later on, after
20 the fact, hindsight essentially?

21 A. Right. And of course, you know, his own -- his direct
22 interactions with me. You know, I mean, you've got to kind of take
23 in context of, you know, I'm a CAB Armor Officer, you know, I've got

1 Infantry, it's an Infantry brigade, and, you know, our expect -- you
2 know, our expectations of the appearance and styles of leaders might
3 be different than if you're in other areas of the Army. So, you
4 know, I'm kind of referencing -- you know, we, again, we have a
5 somewhat high standard. You know, Master Sergeant Adkins has kind of
6 a disheveled look about him and those types of things. So that's
7 something that's a little unnerving for someone like myself who's
8 used to serving with combat arms formations. Whether it's a fair
9 characterization, you know, that's why I say it's a little harsh for
10 me to say though things. I feel a little judgmental of him, but it
11 was my characterization at the time.

12 Q. And, sir, in terms of the way the information flow -- well
13 actually let me back up one second. Sir, have you've been a S-3
14 before; is that correct?

15 A. That's correct.

16 Q. And as the S-3 you had sort of an NCOIC of your section or
17 Sergeant Major?

18 A. It was a Sergeant Major or NCOIC; that's correct.

19 Q. Is it uncommon -- when you were in S-2 was it uncommon for
20 you to delegate enlisted personnel management issues to your NCOIC or
21 Sergeant Major?

22 A. Yes. I mean, it's what I would consider to be the norm.
23 Because as a staff officer, a primary lead staff officer, like an S-3

1 or an S-2 -- you know, the way I function was, is that the Sergeant
2 Major or Master Sergeant, depending what I had at the time, you know,
3 for the most part had, you know, that was his duty description was to
4 manage the non-commissioned officers and enlisted Soldiers of the
5 shop. So the direct leadership supervision in those types of
6 functions fell almost entirely under the NCOIC of the shop, you know,
7 with -- you know, if there's an issue that would could up, and, you
8 know, again, this was how I operated, you know, he would run it by
9 me, tell me this is what's going on. Of course I interacted with
10 Soldiers, but I wasn't dir -- involved in the direct supervision of
11 enlisted members. You know, as a primary staff officer, especially
12 S-2/S-3 sections, you know, you're really focused on the unit's
13 mission and not so much of managing your own shop. So that's why you
14 have senior level NCOs to do that for you.

15 Q. Give me one second, sir.

16 [There was a pause while the trial counsel conferred at the counsel
17 table.]

18 Sir, in your capacity as the -- as a staff -- you know, the
19 XO and then in your prior positions or assignments as an S-3 or
20 assistant S-3 or any of your assignments, have you ever observed a
21 Soldier becoming angry with their supervisor?

22 A. Sure. I mean, I've seen agitated Soldiers before,
23 absolutely.

1 Q. And would an agitated Soldier necessarily lead to the
2 initiation of a DEROG?

3 A. No, not -- no, not -- I mean, you know, you're always going
4 to -- you know, you try and take the minimalist approach first and
5 you're going to counsel and try and rehabilitate. You know, if
6 there's a pattern of events, and eventually you might get to that
7 point, but, you know, one single, individual even would not
8 constitute -- not unless it was really an egregious event, wouldn't
9 constitute the need to do that.

10 Q. Sir, would you expect that as the XO the information flow,
11 in terms of -- for example, if you had a Soldier in the S-2 shop who
12 was going to -- the S-2 wanted to chapter that Soldier, where would
13 that information go -- flow go first? Would it go to the X --
14 straight to the XO or would it go to the HHC Commander?

15 A. You know, there are kind of parallel lines. Where it would
16 go first, most likely probably go to the HHC Commander first because
17 they're the ones that have the command responsibility. So it would
18 come to me as a matter of professional courtesy to make sure I know
19 what's going on within the brigade staff. Because, you know, it's,
20 kind of a -- there's some gray lines in terms of our chain of command
21 and how things work, but the command responsibility, again, relies
22 through the Company Commander. So that's where the command -- where
23 responsibility lies. And I don't have authority as a Commander, so

1 there's certain things I can't do. So I would expect it to move in
2 that route, and then also, at the same time, they'd be letting me
3 know what's going on because I'm overall responsible for the conduct
4 of the staff.

5 Q. And sir, would you expect, as the XO, would you have
6 expected anger management issues with a Soldier to arise to your
7 level?

8 A. No, not from a junior Soldier, no. You know, not unless it
9 became very significant where we're talking about, you know, like a
10 court-martial type issue. But, you know, general day-to-day
11 operations of PFCs in the brigade, even on the brigade staff, those
12 would not have risen to my level.

13 Q. Sir, you talked about a number of actions taking with
14 respect to information security post Manning's arrest and these were
15 part of the AAR process afterwards?

16 A. Yes, that correct.

17 Q. And you disabled, essentially, write capabilities on
18 computers or at least for certain people ----

19 A. Certain number of computers, that's correct.

20 Q. And you may or may not have developed a DEROG SOP, do you
21 recall whether that actually occurred?

22 A. I don't. We were, you know, at the point that we finished
23 up with this, we were literally shutting down our network. So some

1 of things that we recommended that -- to get done never quite came to
2 fruition, because we were literally on the way of transitioning out
3 of Iraq. I mean, we were shutting down and we were doing a battle
4 handover to another brigade combat team. So some of the things that,
5 you know, didn't get fully implemented. Again, I can't recall which
6 did or did not, but essent -- they became moot points because the
7 brigade was essentially no longer there. So the brigade was in a
8 status of having three quarters of it moving back to Iraq while a few
9 of us were still remaining there.

10 Q. When did the -- and maybe this will help the court, sir,
11 Manning was arrested in late May of 2010?

12 A. That's correct.

13 Q. And when was the planning beginning to relocate the brigade
14 from the ----

15 A. Well the planning had already been completed at that point.
16 We were -- execution mode began in June. So ex -- in June we began
17 -- it wasn't a typical redeployment of brigade combat teams.
18 Typically brigade combat teams kind of come and go as full units. In
19 this situation we were in the process of withdrawing battalions at a
20 time. So we were kind of doing a staggered approach because there
21 were some manning limitations within the brigade that we had to get
22 to. So we were some caps for personnel strengths. So we were
23 steadily moving troops out starting as early as June.

1 Q. And sir, in terms of physical security in a SCIF, in your
2 experience, would it be feasible in a combat environment to pat every
3 Soldier down who leaves the SCIF?

4 A. No, it's not. To me, you know, if you have access to a
5 SIPR computer, you know, you're always going to have the ability --
6 because it is not feasible to check every single person leaving the
7 SCIF or -- you know, it honestly doesn't matter. Because we use the
8 term, "SCIF," but SIPR computers are everywhere, they're not just in
9 SCIFs. SIPR computers are located everywhere around and are at from
10 the company level CP all the way up to the battalion CPs, so, you
11 know, when I -- SIPR connections ----

12 Q. CPs, meaning command posts, sir?

13 A. Command posts, yes. So our SIPR, secure internet
14 connections -- you know, the SCIFs had more compartmentalized
15 information in them, but the average -- you know, our average TOC, I
16 mean, the idea of trying to check every single Soldier to see if they
17 have unauthorized, you know, stuff coming off of them, to me in my
18 opinion would be completely unfeasible in a combat environment. We
19 rely on the fact that we have to trust our subordinates to do the
20 right things because we can't control information in that manner.
21 And that's kind of what I told the 15-6, they never wrote anything
22 about it in there, but I told them that all of the actions that we

1 took and would've probably had very little impact on what happened in
2 the Iraq.

3 Q. And, sir, I want to sort of finish by talking about the
4 word, "Ideally." When you use the word, "Ideally," in your letter of
5 reprimand rebuttal, was that because -- I mean, ideally, none of this
6 would have happened. I mean, is that essentially your point there?

7 A. Yeah. Ideal ----

8 CDC[MR. COOMBS]: Objection, Your Honor.

9 MJ: Yes?

10 CDC[MR. COOMBS]: Argumentative and also mischaracterization of
11 when he used that word, "Ideally." So it's within the Lima-Lima-Lima
12 it's in reference to Major Clausen and Master Sergeant Adkins.

13 MJ: It's in refer -- I remember the evidence. Why did you use
14 the term, "Ideally?"

15 WIT: Because I would have, ideally, liked to have had a
16 stronger team going forward into Iraq. I would have liked to have
17 had a stronger team. And so that's why -- you know, ideally, in the
18 Army we'd have everything we need right when we need it, but that's
19 just not the Army. In the Army we have the assets and resources that
20 we have and, you know, we're told to accomplish our mission with the
21 with assets and resources that you have, and that's what we do. And
22 so ideally, I would have had brand new weapons. Ideally, I would
23 have had all of these different things out there, but we don't get

1 what we ideally want, we have to manage what we have. So ideally,
2 would've I had a different OIC and NCOIC in the shop? You know,
3 that's an accurate statement, ideally I would have. But it doesn't
4 mean that they, as I kind of stated before, it doesn't mean that they
5 weren't qualified for the positions that they were in.

6 **Questions continued by the assistant trial counsel [CPT MORROW]:**

7 Q. But it was a essentially a backward looking?

8 A. Absolutely. I mean, at the time, you know, at the time
9 leaving forward, we knew we had some challenges within that shop. We
10 -- you know, myself and Colonel Miller and other leadership within
11 the brigade had some very long discussions about where we should go.
12 So this wasn't like a haphazard kind of, "Okay. We don't know what
13 we've got there." We understood, you know, some of the ramifications
14 of not having the ideal team in there and we decided -- you know, we
15 moved forward know that or thinking that that team was sufficient to
16 accomplish the mission in Iraq. So we thought that they were
17 sufficient to the duties they had, at the time. You know, again,
18 looking back after something like this happens, you know, hindsight's
19 going to lead you to say, "I wish I had done this differently and I
20 wish hadn't." I think that we were prudent in the decisions that we
21 made. We were very judicious in how we were making those decisions.
22 You know, we were looking at the needs of the unit versus the needs
23 of the individuals based on what we had available to us. And at the

1 time we made a decision, which I think was -- you know, I think it --
2 well, I think was the right decision, you know, at the time to move
3 forward with the individuals that we had. Because we didn't have
4 anything better at the time that we could turn to. So we thought
5 that it was the right decision. I, you know, we -- it's been a long
6 time, but Colonel Miller and I had a lot of discussions about that
7 and we were, you know, we were trying to do the right things for the
8 unit and right things for the individuals involved there as well.

9 Q. Yes, sir. And when the decision was made to remove Major
10 Clausen, were you part of the decision to replace him with Captain
11 Lim?

12 A. Yes.

13 Q. And, sir, what are your impressions of Captain Lim?

14 A. Captain Lim, you know, there's no the doubt that Captain
15 Lim was one of the best Military Intelligence Officers I ever served
16 with. I knew Captain Lim. Again, I had served with Captain Lim in
17 2006 and 7 in Iraq before. And long before this process started it
18 was we knew that he was going to be the guy that we put in there. I
19 had extreme confidence in him. I still do to this day, regardless of
20 what the investigation says, I would stand on that decision a hundred
21 times over. He's a fantastic officer. You know, he is -- you know,
22 if I were serving someplace that's the guy I would want to work for.
23 I have nothing but confidence and respect for Captain Steve Lim.

1 Q. And that was true at the time, sir?

2 A. Absolutely.

3 Q. Thank you, sir.

4 **REDIRECT EXAMINATION**

5 **Questions by the civilian defense counsel [MR. COOMBS]:**

6 Q. Sir, just a couple brief clarifications.

7 A. Sure.

8 Q. With regards to Master Sergeant Adkins and Major Clausen,
9 was your determination of them a weak leader, was that a belief you
10 had before the deployment or was that a belief you had after the 15-6
11 investigation?

12 A. I did not -- you know, in using the term, "Weak," you know,
13 I would've -- I did not feel they were the strongest leaders before
14 the deployment as well. I understood that they had weaknesses within
15 their capabilities. So, you know, again, you know, I'm kind of
16 hesitant using the term, "Weak leader," seems to -- for me it's --
17 calling somebody, "A weak leader," means a lot. And so I -- they had
18 weaknesses within their performance and within their capabilities
19 that I felt were evident. You know, kind of, I've said it a bunch of
20 times -- you know, that yes. But I've got weaknesses too, so, you
21 know, a lot of us do. You know, and did it -- so yes, I felt there
22 were some weaknesses there that were more significant than maybe in
23 some of the other staff members.

1 Q. And with regards to a single event being the basis for a
2 DEROG, did I understand you correctly that you could have an
3 egregious enough event that would be a single event that would cause
4 a DEROG?

5 A. Well, sure. A single -- you know, I mean, yes, a single
6 event could cause a DEROG, absolutely. You know, something like a
7 DUI or something like that, you know, or a drug use, something like
8 that, that would absolutely be grounds. But like everything in the
9 Army, it's always going to become, you know, mission dependent. You
10 know, you're going to look at every situation and make
11 determinations. You know, there's going to be some judgment that's
12 made there.

13 Q. And even though maybe junior enlisted issues don't get up
14 to your level, as an XO level, could a serious enough event get to
15 your level as an XO?

16 A. Sure. I mean, a serious enough event could be elevated to
17 me. You know, I have kind of two roles. One is, I'm a filter for
18 information to the Commander and two, I have the need to understand
19 what's happening with the brigade staff because anything that impacts
20 the brigade staff impacts the brigade. So, therefore, I have to kind
21 of know what's going on with that. So yes, I mean, absolutely, you
22 know, a serious event would come forward and I would have been
23 informed of that.

1 CDC[MR. COOMBS]: All right. Thank you.

2 MJ: I just have a couple of questions for you.

3 **EXAMINATION BY THE COURT-MARTIAL**

4 **Questions by the military judge:**

5 Q. I believe earlier in your testimony with respect to Master
6 Sergeant Adkins, did you say you had daily interaction with him?

7 A. Ma'am, I -- yes, I would say -- you know, in Iraq I would
8 probably see him on almost a daily basis, maybe not every day, but I
9 would have probably ran across him on a pretty frequent basis there.
10 I can't say it's every day, but fairly frequent.

11 Q. Did he appear to have any memory issues to you?

12 A. I never saw anything that would make me think that there
13 was something wrong with his intellectual capacity to remember
14 something, no, ma'am.

15 Q. So just to make sure I understand the deployment cycle of
16 your brigade, did you begin to deploy in October of 2009 and then you
17 started to redeploy in June of 2010?

18 A. That's about -- we actually started deploying in September
19 of 2009, you know, with the initial, you know, ADVONs and TORCH
20 parties, and those types of things. The main body moved in October
21 and then we started redeploying, you know, initial folks probably as
22 early as June and then redeployed -- probably had everybody back on

1 the ground roughly in September of 2010. The redeployment was about
2 a 4-month process.

3 MJ: Anything follow up based on that?

4 CDC[MR. COOMBS]: No, Your Honor.

5 ATC[CPT MORROW]: No, Your Honor.

6 MJ: All right.

7 **[The witness was temporarily excused, duly warned, and withdrew from
8 the courtroom.]**

9 MJ: In looking at the time and the amount of witnesses we have
10 left for today, what do you believe is the best approach?

11 CDC[MR. COOMBS]: Just if we could come back by 1330, Your
12 Honor.

13 MJ: All right. Any objection to that?

14 TC[MAJ FEIN]: No, ma'am. 30 after?

15 CDC[MR. COOMBS]: Yeah.

16 MJ: 1330. All right. Anything else we need to address before
17 we recess the court?

18 CDC[MR. COOMBS]: No, Your Honor.

19 TC[MAJ FEIN]: No, ma'am.

20 MJ: Court is in recess until 1330.

21 **[The court-martial recessed at 1237, 12 August 2013.]**

22 **[The court-martial was called to order at 1332, 12 August 2013.]**

1 MJ: Please be seated. Court is called to order. Let the
2 record reflect all parties present when the court last recessed are
3 again present in court.

4 Mr. Coombs?

5 CDC[MR. COOMBS]: Yes, Your Honor. The defense calls Major
6 Elijah Dreher to the stand.

7 MAJOR ELIJAH DREHER, U.S. Army, was called as a witness for the
8 defense, was sworn, and testified as follows:

9 DIRECT EXAMINATION

10 Questions by the civilian defense counsel [MR. COOMBS]:

11 Q. I want to start off by asking you what your duty position
12 was in the 2009/2010 time frame. Okay?

13 A. HHC, Brigade, Company Commander.

14 Q. And when did you become the Company Commander for HHC, 2nd
15 Brigade?

16 A. April 2009.

17 Q. How many Soldiers did you have in -- basically within your
18 company command?

19 A. Are you ----

20 Q. In general. I understand you have support just a ----

21 A. For -- in Iraq we were over about 275.

1 Q. And I want to ask you a few questions about the brigade's
2 guidance to you regarding which members would and would not deploy,
3 okay? Is that okay?

4 A. Yes.

5 Q. Now, with regards to the guidance that you received, what
6 guidance were you told with regards to who would and would not
7 deploy.

8 A. I really wasn't given any guidance. Command did ----

9 Q. Do you recall giving a sworn statement where you said the
10 guidance that you received was that, "Everyone would deploy unless
11 extenuating circumstances?"

12 A. Yes. But, you know, but not ----

13 Q. Did you receive that guidance?

14 A. I did, but ----

15 Q. And was there any pressure from your higher leadership with
16 regards to who should and should not deploy? In other words, did
17 your higher leadership put pressure on you to deploy people ----

18 A. That wasn't ----

19 Q. ---- that shouldn't deploy?

20 A. No.

21 Q. So if you wanted to leave somebody back that you believed
22 shouldn't deploy, what did you need to do?

23 A. I need to convey that.

1 Q. And how so?

2 A. To speak to the command.

3 Q. Can you explain how you would do that?

4 A. I would approach the Battalion Commander.

5 Q. And ----

6 A. Say, "Hey, sir, given the situation, don't recommend we
7 take this person."

8 Q. Did you make any such recommendations regarding anybody in
9 your company?

10 A. No.

11 Q. What was your understanding of -- in addition to your
12 recommendation, what you needed to have with regards to a Soldier
13 that would or would not deploy?

14 A. Well if, if I was going to recommend a Soldier wasn't going
15 to deploy, I would make sure that I had adequate documentation to
16 show the reason behind why they shouldn't deploy.

17 Q. And what would that be in your mind?

18 A. Be it medical, be it psychological, be it family issue. So
19 documentation just to -- for the reasoning.

20 Q. And prior to deployment, how much interaction did you have
21 with your S-2, Major Clausen?

22 A. None.

23 Q. And why was that?

1 A. Very -- the staff I was a Company Commander, I didn't -- we
2 didn't run in the same circles. My job didn't have me interact with
3 him on daily basis. Our location was separate from the Brigade
4 Headquarters location, so --

5 Q. And how much interaction did you have with the S-2, NCOIC,
6 Master Sergeant Adkins?

7 A. Minimal. Didn't see him -- I mean, prior to deployment,
8 didn't see him but at formation maybe.

9 Q. Did Major Clausen ever make a recommendation to you
10 regarding PFC Manning and whether or not he should deploy?

11 A. No.

12 Q. Did Master Sergeant Adkins ever make a recommendation to
13 you regarding PFC Manning ----

14 A. No.

15 Q. ---- and whether or not he should deploy?

16 A. No.

17 Q. Did anyone ever make any recommendation to you ----

18 A. No.

19 Q. ---- regarding PFC Manning?

20 A. No.

21 Q. Do you know if there was any pressure placed upon your S-2
22 section to take a Soldier that shouldn't deploy?

23 A. Not that I'm aware of.

1 Q. Did your S-2 section have a manpower issue, as far as the
2 numbers that they needed?

3 A. My understanding, they had the numbers that they needed.

4 Q. Could the S-2 have deployed, with regards to numbers,
5 without PFC Manning?

6 A. I can't make that dec -- I couldn't say yes or no to that.

7 Q. So when you said, "They had the numbers," did you have any
8 idea of what they're deployment strength was?

9 A. No.

10 Q. Had Major Clausen or Master Sergeant Adkins raised a
11 concern to you, as the Company Commander, regarding whether or PFC
12 Manning should deploy, how would that have been handled?

13 A. I would take -- I would address that with the Battalion
14 Commander. Go to the Battalion Commander, give him the circumstances
15 and explain it to him.

16 Q. And I want to ask you a few questions about what you knew
17 about PFC Manning prior to the deployment, okay? And you need to
18 verbalize a response to me.

19 A. Yes.

20 Q. Did you ever receive any reports regarding any disciplinary
21 problems with PFC Manning prior to the deployment?

22 A. No.

1 Q. Were you aware of any behavioral problems with PFC Manning
2 prior to the deployment?

3 A. No.

4 Q. I want to ask you a few questions now about what you knew
5 during the deployment, okay?

6 A. Yes.

7 Q. When was the first time you became aware of any behavioral
8 issues with PFC Manning during the deployment?

9 A. January?

10 Q. And what were you made aware of?

11 A. That there had been an incident in the S-2 shop.

12 Q. And can you specifically tell me what you were informed
13 about?

14 A. The confrontation between him, I think, and Specialist
15 Showman.

16 Q. Were you aware of any incident between PFC Manning and
17 Specialist Padgett?

18 A. No.

19 Q. Were you ever informed of an incident in which PFC Manning
20 flipped over a table during a counseling session?

21 A. It's -- I really can't remember. I mean, the incident I
22 remember is the incident of the issue with Showman. I mean, and they

1 -- given this time, an extended period of time since this all
2 occurred, a lot of it is blurred together. So I can't --

3 Q. All right. So I'm just going to throw some facts to you
4 and see if you recall these facts, if that jogs your memory, okay?
5 Were you ever informed of an incident in which PFC Manning had to be
6 restrained during a counseling session?

7 A. No.

8 Q. Were you ever informed of a incident where PFC Manning,
9 during that counseling session, reached for a weapon from a weapons
10 rack?

11 A. No.

12 Q. And I saw from your reaction there -- would that be
13 something you would expect to be informed of?

14 A. Yes.

15 Q. And why is that?

16 A. Because that's not something you allow to happen. Without
17 any recourse.

18 Q. If you had -- well actually, did Master Sergeant Adkins
19 ever share a memorandum for record that he wrote on 21 December 2009
20 with you?

21 A. Not that I recall, no.

1 Q. I'm handing you what is Defense Exhibit XX. I ask you just
2 to look at that for a moment and please read it silently to yourself.
3 When you're done just look up at me.

4 **[The witness did as directed.]**

5 Q. Have you ever seen this memorandum before?

6 A. Not that I recall.

7 Q. The information that's contained in the memorandum, were
8 you ever informed of any of that?

9 A. I know that the bolt was removed from his weapon, I
10 remember that.

11 Q. Other than that, any of the other facts that are contained
12 in that memorandum?

13 A. No.

14 Q. Is this the type of information that you should be made
15 aware of as a company commander?

16 A. Yes.

17 Q. And why is that?

18 A. So then you can help to make an assessment and inform your
19 superior.

20 Q. Am I correct, as far as a -- well actually, before I ask
21 that question, this memorandum -- was Master Sergeant Adkins somebody
22 who you dealt with more during the deployment, as opposed to prior
23 deployment?

1 A. Yes.

2 Q. Did you ever notice during the deployment if Master
3 Sergeant Adkins had any memory problems?

4 A. No.

5 Q. Did you ever notice if Master Sergeant Adkins during the
6 deployment ever had any problems conveying information?

7 A. No.

8 Q. The time that you were the Commander, did you understand
9 how to initiate a DEROG?

10 A. Yes.

11 Q. And based upon your understanding, in general, by
12 regulation, when should a DEROG be initiated against a Soldier with a
13 security clearance?

14 A. Well, when there's an issue that comes to light that meets
15 the criteria.

16 Q. With regards to PFC Manning do you believe that you were
17 given adequate information to make decisions about whether or not
18 DEROG should be initiated?

19 A. No.

20 Q. And why not?

21 A. I don't -- the information wasn't shared with me.

1 Q. And now I want to ask you a few questions about your
2 interaction with PFC Manning when you flew back together for mid-tour
3 leave, okay?

4 A. Yes.

5 Q. During that flight did you have a chance to speak with PFC
6 Manning?

7 A. I spoke with PFC Manning at -- in Baghdad, at the airport.

8 Q. And how long did the two of you talk?

9 A. Maybe 20 minutes.

10 Q. And in general, what kind of topics did you discuss?

11 A. He spoke me and referenced his desire to possibly look at
12 the Green to Gold program.

13 Q. And that's to go from enlisted to officer?

14 A. Yes.

15 Q. And any other topics, in general?

16 A. That he wanted to go to school. He wanted to go to
17 college.

18 CDC[MR. COOMBS]: Retrieving from you Defense Exhibit XX.

19 I have no further questions, Thank you.

20 MJ: Cross?

21 [END OF PAGE]

22

CROSS-EXAMINATION

Questions by the assistant trial counsel [CPT MORROW]:

Q. One second, sir.

[There was a pause while the trial counsel conferred at the counsel table.]

Sir, you wouldn't necessarily expect to have interaction with Master Sergeant Adkins or Major Clausen unless there were some kind of issues in the shop?

A. Correct.

Q. So it wasn't necessarily -- you know, you weren't required as a Company Commander to check in with them every day and they weren't required to check in with you every day, it was only if issues that needed your attention were brought to light, essentially?

A. Correct.

Q. And how long have you been in the Army, sir?

A. I came into the Army in 1992.

Q. And have you ever had a Soldier with an anger management issue?

A. No, not an anger management issue.

Q. Have you observed other Soldiers who have gotten angry at their superiors?

A. Yes.

1 Q. Is that necessarily something that leads to the initiation
2 of an adverse action?

3 A. Not necessarily, no.

4 Q. And why not, sir?

5 A. A lot of times that's left to the NCOs to address that
6 issue, to come up with some type of corrective training.

7 Q. So corrective training short of, like, an Article 15 or a
8 DEROG?

9 A Yes.

10 Q. And, sir, you mentioned you were sort of in the -- you went
11 home on mid-tour leave the same time as PFC Manning?

12 A. Yes.

13 Q. And you guys talked about college?

14 A. Yes.

15 Q. Education, potentially going Green to Gold?

16 A. Yes.

17 Q. Did anything strike you as, you know, weird about PFC
18 Manning?

19 A. I did -- it was kind of interesting trying to understand
20 where he was coming from. I mean, I really had not had a
21 conversation with him previous to that.

22 Q. But it was normally -- it was, otherwise, a conversation
23 that you might have with any other Soldier in your ----

1 A. Yes.

2 Q. One moment.

3 Sir, just in terms of time period, you left command in
4 April of 2010?

5 A. On paper, yes.

6 Q. Okay. And Captain Freeburg took over for you?

7 A. Yes.

8 ATC[CPT MORROW]: Thank you, sir.

9 MJ: Redirect?

10 CDC[MR. COOMBS]: No, Your Honor.

11 **EXAMINATION BY THE COURT-MARTIAL**

12 **Questions by the military judge:**

13 Q. What do you mean, "on paper?"

14 A. Ma'am, I was assuming another role as we were going through
15 a change in command, inventories.

16 Q. So is that when -- so did you -- did your duties as
17 Commander of HHC end in April of 2010?

18 A. I was working as the CHOPS as well as the Company
19 Commander.

20 Q. Let me be a little more clear. When did your duties end as
21 the Company Commander?

22 A. In April.

1 Q. In April of 2010? So, really -- in reality as well as on
2 paper?

3 A. I wasn't available, given the job that I was doing, to be a
4 Company Commander.

5 Q. When did that start?

6 A. That's the end of February, beginning of March.

7 Q. And to the best of your recollection, do you remember when
8 PFC Manning's bolt was taken from his weapon?

9 A. I do not know.

10 MJ: Any follow up based on that?

11 CDC[MR. COOMBS]: No, Your Honor.

12 ATC[CPT MORROW]: Just one moment, Your Honor.

13 [There was a pause while the trial counsel conferred at the counsel
14 table.]

15 ATC[CPT MORROW]: Just briefly, Your Honor.

16 **RE CROSS-EXAMINATION**

17 **Questions by the assistant trial counsel [CPT MORROW]:**

18 Q. Sir, when you were doing, sir, dual duty as the CHOPS and
19 then also as the Company Commander?

20 A. Yes.

21 Q. You were still -- people still come to you in terms of
22 administrative actions for the company; is that correct?

23 A. Yes, sir.

1 ATC[CPT MORROW]: Thank you.

2 MJ: All right.

3 [The witness was temporarily excused, duly warned, and withdrew from
4 the courtroom.]

5 CDC[MR. COOMBS]: Your Honor, the defense calls Major Clifford
6 Clausen.

7 MAJOR (RETIRED) CLIFFORD CLAUSEN, U.S. Army, was called as a witness
8 for the defense, was sworn, and testified as follows:

9 DIRECT EXAMINATION

10 Questions by the civilian defense counsel [MR. COOMBS]:

11 Q. Were you ever the Brigade S-2 for the 2nd Brigade Combat
12 Team?

13 A. I was the 2nd Brigade S-2 from January of 2009 to December
14 of 2009.

15 Q. And, currently, are you still in the service?

16 A. I am retired now.

17 Q. And when did you retire?

18 A. I retired 1 February.

19 Q. Now I want to ask you a few questions about the brigade's
20 guidance to you for selecting those members of the brigade that you
21 would take forward with you on deployment, okay?

22 A. Yes.

1 Q. Now, what guidance was given to you by the brigade
2 regarding selecting those members who would not deploy?

3 A. I don't remember specific. You know, just the normal
4 reasons to remain behind and you'd leave them behind so --

5 Q. Was there any pressure from higher leadership to deploy
6 members of your section in order to meet strength?

7 A. We were having a problem meeting strength. There's
8 pressure on the whole unit to deploy to -- so we can provide the best
9 intelligence possible. But, I do not remember specifics.

10 Q. And within your S-2 section, were you under strength or did
11 you have adequate ----

12 A. We were understrength.

13 Q. How understrength were you?

14 A. It was about a third, roughly, between everything I can
15 remember.

16 Q. What percentage of strength did -- from your memory, did
17 you need to have in order to deploy?

18 A. It would have taken about a third just to meet the bare
19 minimum requirements.

20 Q. And with regard -----

21 MJ: I'm sorry, it would take a third of your -- the strength?

22 WIT: Of a normal intel, ma'am.

23 MJ: Okay. Thank you.

1 Questions continued by the civilian defense counsel [MR. COOMBS]:

2 Q. If you wanted to leave someone back in the rear either due
3 to a performance issue or just believing they shouldn't deploy, what
4 did you need to do, from your understanding?

5 A. Talk to the chain of command and inform them of the reason
6 and then, you know, they, you know, they'd be put on the stay back
7 roster.

8 Q. Who was the approval authority for that?

9 A. I don't remember.

10 Q. Did you ever make a request to leave somebody behind?

11 A. We left one NCO behind because of medical problems. He had
12 a heart attack or -- I think it was a heart attack, so --

13 Q. Did Master Adkins ever make recommendation to you
14 concerning not deploying PFC Manning?

15 A. No. Not that I remember, no.

16 Q. Did Master Sergeant Adkins ever make a recommendation to
17 you regarding any Soldier, whether or not they should deploy?

18 A. The one NCO for medical reasons.

19 Q. Did CW2 Ehresman ever make a recommendation to you not to
20 deploy PFC Manning?

21 A. Not that I remember.

22 Q. Did anyone within the S-2 section ever make a
23 recommendation regarding whether or not PFC Manning should deploy?

1 A. Not that I remember.

2 Q. And had anyone in your section, whether that be Chief
3 Ehresman, Master Sergeant Adkins or somebody else made such a
4 recommendation, how would you have handled that?

5 A. You take in all the information that you receive to make a
6 determination. Then you have to break out whatever regulations would
7 pertain to for that reason to stay back and, you know, get into the
8 detail to see does it meet regulation or not.

9 Q. From your perspective, was PFC Manning deployed due to a
10 manpower issue?

11 A. PFC Manning was deployed because we were deploying.

12 Q. So could you have operated without PFC Manning?

13 A. You can always do more with less, but there's no reason to
14 not operate with Manning.

15 Q. All right. So if I understand you correctly, then, PFC
16 Manning could have been left behind if that was the determination,
17 that he wasn't needed for manpower issues; is that correct?

18 A. Yeah.

19 Q. Now, I want to ask you a few questions what you knew
20 regarding PFC Manning prior to the deployment, okay?

21 A. Okay.

22 Q. Did you ever receive any reports regarding any behavioral
23 problems with PFC Manning prior to the deployment?

1 A. Sergeant Adkins and -- had briefed me on the anger issue at
2 JRTC and that he was self-referred once. That's before the
3 deployment, what I remember.

4 Q. All right. So let's cover those in turn. What do you
5 recall from the issue at JRTC?

6 A. He got mad and displayed a violent tendency. You know, I
7 don't remember exactly any description of the violence, but -- and
8 that then he was counseled and -- that's about what I remember.

9 Q. And from that memory, was counseling the only thing that
10 was done or was there anything else done after that incident?

11 A. I don't remember in a timeline with, you know, his self-
12 referral or which came first. I don't remember the order.

13 Q. So let's go with the second incident that you said self-
14 referral. Why was that done?

15 A. I thought because Manning wanted to get help for his
16 issues.

17 Q. And were you ever briefed on what the result was of the
18 self-referral?

19 A. No, other than normal continued duty type, you know,
20 feedbacks, that Manning went and saw a psychiatrist. Whatever they
21 said between those doors were between them, but no reason to not
22 continue duty.

1 Q. And at the time that this was happening, did Master
2 Sergeant Adkins make the recommendation to allow PFC Manning to self-
3 referral or did he make a recommendation regarding a command
4 referral?

5 A. I don't remember.

6 Q. Was there ever any discussion from your position of doing a
7 command referral or at least recommending to the Company Commander to
8 do a command referral?

9 A. No.

10 Q. Do you understand the differences between a command
11 referral and a self-referral?

12 A. In generality.

13 Q. What -- in general, what do you understand the difference
14 to be?

15 A. Self-referral is taken by the Soldier to try to seek help
16 for themselves. Command referral is the Soldier does not seem to
17 want to take help for themselves and then you give them the
18 opportunity to get that help.

19 Q. And is your memory also the difference involving the amount
20 of information that command gets regarding what happens?

21 A. I don't remember the reg on what comes back exactly with
22 it. I don't remember.

1 Q. So just, so I understand you correctly then, you don't
2 understand there to be a difference between how much information is
3 shared back with the command if it's a self-referral as opposed to a
4 command referral?

5 A. Correct, I do not remember.

6 Q. And when we talk about command referral, who would be the
7 individual making that determination?

8 A. Should be anyone in his chain in command. Most likely the
9 Company Commander.

10 Q. And do I understand you correctly that you don't recall
11 Master Sergeant Adkins ever reporting back to you what happened after
12 PFC Manning went for self-referral?

13 A. Well, the fact that he went for self-referral and that
14 nothing was reported back to the chain of command to indicate
15 anything other than continued duty, so ----

16 Q. Prior to the deployment, did you ever discussion any of PFC
17 Manning's problems that you were aware of with the Company Commander?

18 A. No.

19 Q. And why not?

20 A. Because they were being handled by Master Sergeant Adkins.
21 He had briefed me, so he was briefing the Company Commander on
22 whatever he thought was appropriate and I was letting the
23 administrative company command chain take that.

1 Q. Do you recall saying that you did not take issues to the
2 Company Commander because you didn't take too many issues outside of
3 the S-2 shop?

4 A. I did say that. And what I meant is you don't take issues
5 outside of your little staff section unless you need to and the
6 information was already flowing. So there was no reason for me to go
7 straight over to the Company Commander if the information was already
8 going.

9 Q. And when you say that, I want to make sure I understand you
10 correctly, are you saying the information was already going to the
11 Company Commander or the information was already going up to you
12 within the S-2 shop.

13 A. Up to the Company Commander. When I was being told that
14 Manning was self-referred, was also told to the Company Commander.

15 Q. And who do you understand to have reported that to the
16 Company Commander?

17 A. I believe it was Sergeant Adkins. I did not double-check,
18 though, I just ----

19 Q. And can you tell me why you believe that to be true?

20 A. Because I have no reason not to.

21 Q. No, I know, I'm just wondering was something that was told
22 to you by Master Sergeant Adkins or did you find out that fact in
23 some other manner?

1 A. I don't remember exactly how I found out.

2 Q. But that's your understanding now?

3 A. That's my understanding, yes.

4 Q. Okay. I now want to ask you a few questions about what you

5 knew during the deployment, okay?

6 A. Okay.

7 Q. When was the first time you were made aware of any

8 behavioral health issues or behavioral issues with PFC Manning during

9 the deployment?

10 A. In general, not getting along with people. Maybe -- I

11 don't remember time line, but just general, you know, Sergeant Adkins

12 saying, you know, "Still having a problem getting along with people,"

13 and then the next thing I do remember is that he was, you know,

14 command referred.

15 Q. Do you recall PFC Manning having an outburst in the T-SCIF

16 on 12 December 2009, involving Master Sergeant Adkins?

17 A. The specifics, no.

18 Q. Do you recall that incident, though?

19 A. That's probably what caused the command referral. I don't

20 remember the time line.

21 Q. Do you recall anything about how you found out about that?

22 A. Master Sergeant Adkins would have told me.

1 Q. Do you recall being informed about an incident on 20
2 December 2009, where PFC Manning had an outburst involving Specialist
3 Padgett?

4 A. Not in specific.

5 Q. Do you recall that incident, though?

6 A. Not at this time.

7 Q. With regards to -- and I'll ask you a few facts to see if
8 that jogs your memory and you tell me whether or not it does. Do you
9 recall Master Sergeant Adkins or anyone else informing you of PFC
10 Manning flipping a table during a counseling statement with
11 Specialist Padgett?

12 A. I remember something about a table flip.

13 Q. Do you recall anyone informing you that PFC Manning, others
14 believed, reached for a weapon during the counseling?

15 A. I don't recall.

16 Q. You don't recall that happening?

17 A. I don't recall that bit of information, no.

18 Q. Do you recall being informed that CW2 Ehresman had to
19 restrain PFC Manning and pull him out of the T-SCIF at this incident?

20 A. I don't recall. I don't recall.

21 Q. Would this be information that you would expect to have
22 been briefed on as the S-2?

23 A. Yes.

1 Q. And why is that?

2 A. Just information pertaining to the section, general
3 operating procedure, you know, general operating environment so that
4 I could make sure that the work was being done.

5 Q. The time that you were the S-2, did you understand what a
6 DEROG was?

7 A. Yes.

8 Q. And what is your understanding?

9 A. DEROG is a derogatory report filed when the command thinks
10 it's time.

11 Q. And who can initiate a DEROG under your understanding?

12 A. The chain of command.

13 Q. With regards to the incident in 20 December 2009, do you
14 believe that a DEROG, at least notifying the command of this
15 incident, if it involved a Soldier reaching for a weapon during a
16 counseling statement, would be something that you would inform the
17 chain of command of?

18 A. Too many ifs there, say again.

19 Q. If you were -- and I know you're saying your memory now,
20 you don't recall the incident, but based upon your position as an S-
21 2, if you were informed that a Soldier during a counseling session
22 reached for a weapon and had to be restrained, would this be

1 something that you would inform the Company Commander of and have the
2 Company Commander determine if the DEROG would be appropriate?

3 A. Say it again.

4 Q. Sure. So if you, as the S-2, Master Sergeant Adkins comes
5 to you and says, "Sir, one of our Soldiers during a counseling
6 session flipped a table, reached for a weapon, had to be restrained
7 by another Soldier and dragged out of the T-SCIF?"

8 A. Okay.

9 Q. You're informed of that. Your position as an S-2, would
10 that be something that you would inform the Company Commander of in
11 order to determine whether or not a DEROG would be appropriate?

12 A. If I did not think that Sergeant Adkins or somebody else
13 had informed.

14 Q. Okay. And why would that be the case, that you would want
15 to inform the Company Commander?

16 A. So he had full understanding of what was going on within
17 the personnel in his company.

18 Q. I'm showing you what's been marked or what is Defense
19 Exhibit XX. Have you ever seen that document before?

20 A. To give you a proper answer, I'm just reading, sir.

21 Q. Sure, go ahead.

22 MJ: While he's reading that, Mr. Coombs, have I admitted that?

23 CDC[MR. COOMBS]: You have, Your Honor.

1 [There was a pause while the witness examined the document.]

2 Questions continued by the civilian defense counsel [MR. COOMBS]:

3 A. I do not remember receiving this memo.

4 Q. Do you ever remember seeing that memo before?

5 A. I do not remember seeing the memo.

6 Q. And you took the time, I guess, to read the memo; is that
7 correct?

8 A. Yes, I did.

9 Q. Is this the type of information that you would expect to be
10 informed of as the S-2?

11 A. Yes, I remember something about a little bit of altercation
12 with the key that's mentioned in it.

13 Q. But with regards to the information that's contained in
14 Defense Exhibit XX, is that the type of information you would expect
15 to have reported to you?

16 A. Yes.

17 Q. And why is that?

18 A. Because it provides understanding of the personnel.

19 Q. And is that the type of information you would expect to
20 share with the Company Commander?

21 A. That I would expect the Company Commander to have access to
22 also.

23 Q. And why is that?

1 A. Because it provides understanding of the personnel under
2 his command.

3 Q. Would it also provide understanding whether or not DEROG
4 should be initiated?

5 A. It informs the DEROG decision.

6 Q. Now as the S-2 you had overall supervisory responsibility
7 of the Soldiers within your section; is that correct?

8 A. Yes.

9 Q. You were responsible for the health, welfare, and
10 discipline of the personnel in your session?

11 A. Yes.

12 Q. And you allowed Master Sergeant Adkins to take care of all
13 the officer and enlisted issues within the S-2 section; is that
14 correct?

15 A. No.

16 Q. Master Sergeant Adkins had a supervisory scheme that
17 involved officer and enlisted members and you supported his scheme;
18 is that correct?

19 ATC[CPT MORROW]: Your Honor?

20 MJ: Yes?

21 ATC[CPT MORROW]: Objection. Leading.

22 CDC[MR. COOMBS]: It's not leading, I'm asking him ----

1 MJ: You're asking him a leading question. So what's your ----

2 CDC[MR. COOMBS]: Did Master Sergeant Adkins ----

3 MJ: ---- response to the leading?

4 CDC[MR. COOMBS]: I'll rephrase it, ma'am.

5 MJ: Okay.

6 **Questions continued by the civilian defense counsel [MR. COOMBS]:**

7 Q. Did Master Adkins have a supervisory scheme within the S-2
8 section?

9 A. Yes.

10 Q. Did you support that supervisory scheme?

11 A. Yes.

12 Q. So why did you support Master Sergeant Adkins' supervisory
13 scheme?

14 A. Because the command is command and NCOs run the unit.

15 Q. Do you recall anyone coming to you -- well actually, do you
16 recall Chief Ehresman coming to you to complain about Master Sergeant
17 Adkins' supervisory scheme?

18 A. I don't remember any specific complaints from a person.

19 Q. So that's a no to Chief Ehresman?

20 A. I do not recall any specific complaints. I know people
21 complained. I would have been worried if people don't complain.

1 Q. Well that -- I -- and listen to my question. I'm asking a
2 specific person. Do you recall Chief Ehresman coming to you to
3 complain about the supervisory scheme of Master Sergeant Adkins?

4 A. I do not recall in specific, no.

5 Q. Do you recall Chief Ehresman ever coming to you to speak to
6 you on multiple occasions to determine whether or not you wanted him
7 involved in Soldier leadership and disciplinary decisions?

8 A. I remember various discussions with Chief Ehresman and that
9 would have been one of the subjects. But do I remember a specific
10 time, no.

11 Q. What was Chief Ehresman's concern if that was one of the
12 subjects?

13 A. What I wanted him to do, what his responsibilities were.

14 Q. Can you give us what his concern was?

15 A. Was he to focus in on analytic or to actually be leading
16 the Soldier or doing the admin for the Soldier?

17 Q. And from that conversation, did Chief Ehresman ever express
18 to you a concern that he wasn't given responsibility for Soldiers?

19 A. He wasn't given the responsibilities he used to be used to
20 as an NCO, no.

21 Q. Did he express that concern to you?

22 A. Probably.

1 Q. Do you recall Captain Michael Johnson coming to you to
2 complain about Master Sergeant Adkins' supervisory scheme?

3 A. Not in specific.

4 Q. Do you recall telling Captain Johnson, "He needed to stay
5 in his lane?"

6 A. No, I do not.

7 Q. Now the individual that you allowed to do the supervisory
8 scheme within the S-2 section was Master Sergeant Adkins; is that
9 right?

10 A. I approved it, I mean --

11 Q. Did you believe that Master Sergeant Adkins was a below or
12 above average leader?

13 A. To get at the question, I have said, "He was a bit below
14 average," but that's only because he does not display the tendencies
15 of a person like that, a Sergeant Major of the 82nd Airborne.

16 Q. Do you recall saying you would not assess him as a strong
17 NCO?

18 A. I did say that and once again, it's my personal take. If
19 you don't display the tendencies of an Infantry, then it's just a
20 different thing.

21 Q. When you worked with Master Sergeant Adkins, did you ever
22 notice any memory issues on his part?

23 A. No.

1 Q. Did you ever notice any issues with Master Sergeant Adkins
2 having difficulty expressing himself?

3 A. He has to sit and think, just like I do, to make sure you
4 phrase the information you're trying to send properly.

5 Q. But other than, I guess, pausing to contemplate your
6 answer, did you ever notice any difficulties on his part of
7 expressing information?

8 A. By my def, no.

9 Q. Now, if you felt that Master Sergeant Adkins was a below
10 average leader and not a strong NCO, why would you support his
11 supervisory scheme in the S-2 section?

12 A. Sergeant Adkins was a fine NCO and a fine leader. I have a
13 standard that's personal. And when I answered that question I gave
14 my personal answer which is, you know, displaying the other things,
15 but I have no problems with the way Sergeant Adkins portrayed himself
16 or carried himself.

17 Q. You received a general officer memorandum of reprimand in
18 this case, correct?

19 A. Yes.

20 Q. And one of the basis was that despite identifying Master
21 Sergeant Adkins as a below average leader, you supported his
22 dysfunctional and unclear leadership scheme; is that correct?

23 A. That was in the letter, yes.

1 Q. And you wrote a rebuttal to that letter?

2 A. Yes, I did.

3 Q. And that letter was ultimately filed in your performance
4 file?

5 A. Yes.

6 CDC[MR. COOMBS]: Thank you. I'm retrieving from the witness
7 Defense Exhibit XX. No further questions.

8 MJ: Cross-examination?

9 ATC[CPT MORROW]: Yes, ma'am.

10 **CROSS-EXAMINATION**

11 **Questions by the assistant trial counsel [CPT MORROW]:**

12 Q. Sir, let's start with your letter of reprimand. Your --
13 when that letter of reprimand was filed or served on you, you were
14 given an opportunity to rebut that; is that correct?

15 A. Yes, I was.

16 Q. And your chain command provided recommendations on where
17 that should be filed?

18 A. Yes, they did.

19 Q. And your immediate commander recommended that it be filed
20 locally?

21 A. Yes.

22 Q. And your O6 Commander recommended that it be filed locally?

23 A. Yes.

1 Q. And your General Officer recommended that it be filed
2 locally; is that correct?

3 A. Yes.

4 Q. And that General Officer was who?

5 A. General Legere.

6 Q. And General Legere is who? What position what does she
7 hold now?

8 A. She is currently the DA G2.

9 Q. She's a D -- Department of the Army G2? And she
10 recommended that be filed locally?

11 A. Yes.

12 Q. All right. Sir, let's talk about Master Sergeant Adkins.
13 Master Sergeant Adkins had a number of strengths; is that correct?

14 A. Yes.

15 Q. He was strong in organization?

16 A. Definitely.

17 Q. Equipment?

18 A. Yes.

19 Q. He -- when he would -- had a problem he would come to you
20 with a solution?

21 A. Yes, exactly.

22 Q. He was smart and analytical?

23 A. Definitely.

1 Q. And he lived the motto, "Mission first, people always?"
2 A. Totally. Totally cared about the mission and the people.
3 Q. And why do you say that?
4 A. Everything he displayed and did led me to believe that. He
5 wanted to make sure that the mission was always accomplished, but
6 while doing that he always tried his best to take care of the
7 Soldiers. Making sure they had the help they needed or whatever they
8 needed.
9 Q. And how long were -- have you been in the Army, or were you
10 in the Army, sir?
11 A. I was in the Army 18 years.
12 Q. And your general mode of operating is that you don't take,
13 "Ash and trash," to the command; is that correct?
14 A. Exactly right. You don't burden them with things that they
15 don't need to effect.
16 Q. You take appropriate issues to the chain of command?
17 A. Exactly right.
18 Q. And in some cases anger management issues for a Soldier in
19 your section might not necessarily be a reason or an issue that you
20 need to take to the chain of command?
21 A. Right, especially if it's low lying. You don't take a
22 brigade's worth of Soldiers' issues straight to the Brigade
23 Commander, so --

1 Q. And you may not even necessarily take it to the Company
2 Commander if it's being dealt with other ----

3 A. Exactly right.

4 Q. ---- corrective action? Sir, would you ever encourage a
5 Soldier not to go seek behavioral health treatment?

6 A. No, I would encourage them to seek behavioral health
7 treatment or anything that they thought could aid them in their ----

8 Q. And why not? Why is it important to encourage Soldiers to
9 seek out behavioral health?

10 A. Especially since I've been growing up in the MI, it's
11 overcoming the stigma that behavioral health has especially within
12 MI. You want them to be able to get the help and know that they can
13 get the help and you want other Soldiers to see that if you want to
14 get help for any issue that you have, that you can. It's vitally
15 important point for their health and for the general organization's
16 health.

17 Q. And, sir, that would be true whether the -- it was a self-
18 referred trip to behavioral health or whether it was a command
19 referred behavioral health?

20 A. Yes.

21 Q. You would want to encourage Soldiers to take advantage of
22 the ---

23 A. Any help ----

1 Q. ---- opportunities?

2 A. Any help that they can get, yes.

3 Q. And, sir, in the mental health context, why is the MI field
4 a little bit different than maybe some of the other fields?

5 A. Because especially the stigma back in the day is if you saw
6 a mental health professional, you lost your ability to have a job.

7 Q. And the situation we have today in terms of Soldiers
8 seeking treatment if they need it, is that a better system than what
9 we had before?

10 A. It has definitely improved where you can get help and try
11 to get the right help for the right problem.

12 ATC[CPT MORROW]: Just one moment, sir.

13 Thank you, sir.

14 WIT: Thank you.

15 CDC[MR. COOMBS]: No redirect.

16 **[The witness was temporarily excused, duly warned, and withdrew from**
17 **the courtroom.]**

18 MJ: Yes?

19 ATC[CPT MORROW]: Your Honor, if we would, can we have a 10-
20 minute recess?

21 MJ: Any objection?

22 CDC[MR. COOMBS]: No objection, Your Honor

23 MJ: All right. The court is in recess until 1430 or 2:30.

1 [The court-martial recessed at 1419, 12 August 2013.]

2 [The court-martial was called to order at 1509, 12 August 2013.]

3 MJ: Please be seated. Court is called to order. Let the
4 record reflect all parties present when the court last recessed are
5 again present in court.

6 Mr. Coombs, are you ready to proceed?

7 CDC[MR. COOMBS]: Yes, Your Honor. The defense calls Captain
8 Matthew Freeburg.

9 CAPTAIN MATTHEW FREEBURG, U.S. Army, was called as a witness for the
10 defense, was sworn, and testified as follows:

11 DIRECT EXAMINATION

12 Questions by the assistant trial counsel [CPT von ELTEN]:

13 Q. And for the record, you're Captain Matthew Freeburg of the
14 30th ADA Brigade?

15 A. I am.

16 ATC[CPT von ELTEN]: Thank you.

17 Questions by the civilian defense counsel [MR. COOMBS]:

18 Q. Good afternoon, Captain Freeburg. The -- I want to start
19 off by talking about when you were the HHC Commander ----

20 A. Okay.

21 Q. ---- at 2nd BCT. Okay?

22 A. Okay.

1 Q. Can you tell the court what time frame you were the HHC
2 Commander?

3 A. I was Commander from 17 April 2010 to 26 June 2012.

4 Q. And when you became the Company Commander, did you receive
5 a briefing on personnel and administrative matters from Major Dreher?

6 A. I did not.

7 Q. And do you know why not?

8 A. At that time, the focus was not typically personnel and
9 those other things that normally go with the handoff between
10 outgoing/incoming. We had, like, some major property issues that
11 kind of overshadowed everything else at the time. So that is why.

12 Q. Okay. And at the time that you took command, were you ever
13 told of any behavioral issues with PFC Manning?

14 A. Not at the time I took command.

15 Q. When was the first time that you were made aware of any
16 problems involving PFC Manning?

17 A. To the best of my knowledge, it was at the time roughly
18 early May at the time of the assault on Specialist Showman.

19 Q. And who briefed you on this incident?

20 A. It would have been Master Sergeant Adkins at the time.

21 Q. Do you recall Lieutenant Gaab ever talking to you about it?

22 A. I want to say, when Master Sergeant Adkins was talking to
23 me, I want to say that she did happen to kind of step into the

1 conversation as well. I don't -- she was had a very small part in
2 the whole conversation between myself and Sergeant Adkins. But I do
3 remember that she did, I guess, step in there for a short time.

4 Q. And when were you informed of the incident, from your
5 memory?

6 A. It happened in the early morning. The exact date, I want
7 to say 7 May, but before sunrise and then, like, mid-morning, maybe
8 8:00, 9:00 is when I was actually informed of the incident.

9 Q. And how did you respond to the incident?

10 A. Well I was -- I guess I was surprised that any kind of, you
11 know, assault would happen just because I knew Specialist Manning at
12 the time. Not because I knew his character or anything like that.
13 It's just, like, a Soldier on Soldier assault, that kind of -- that's
14 not the best thing. So, you know, at that time, Master Sergeant
15 Adkins, he did say, "Hey, I don't really think he should working on
16 the SCIF anymore because of this incident, can you help us put him
17 somewhere else?" And the only thing I can think of at the time was,
18 "Okay, well, I don't want to put him in another staff section to
19 work. So I'll just go ahead and take him and he can work in my
20 company headquarters in the supply room." So that was my response to
21 that.

22 Q. And did you initiate a DEROG based upon this incident?

1 A. I don't know if -- I don't think I actually typed it up. I
2 want to say Specialist Showman from the S-2 had typed it up and then
3 sent it to me and said, "Hey, due to," -- because at the time of the
4 incident or the assault, I knew I was going to take some kind of
5 UCMJ action on Manning. So I didn't know the steps that I was going
6 to have to take as far as, like, what needed to be done as far as a
7 DEROG. So I did have -- Specialist Showman did send me -- filled out
8 a copy of the DEROG which I didn't really question at the time, okay.
9 He's pending UCMJ action, so this is kind of standard procedure. So
10 I went ahead and signed it. I gave it back to the S-2 shop for
11 processing.

12 Q. I'm showing you what has been marked as Defense Exhibit
13 Oscar-Oscar-Oscar for Identification. Would you take a look at that
14 for a moment and then just look up at me when you're done?

15 **[The witness did as directed.]**

16 A. My recommendation.

17 Q. Yeah. Do you recognize that?

18 A. I do.

19 Q. And what is it?

20 A. It is -- well it appears to me to be the DEROG -- a DEROG
21 paperwork.

22 Q. Was that the DEROG that you filed for the incident
23 involving PFC Manning?

1 A. It would have been.

2 Q. And is this DEROG in the same condition as it was at the
3 time you filled it out other than being a copy, I guess?

4 A. Yes.

5 CDC[MR. COOMBS]: I'm retrieving Defense Exhibit, Oscar-Oscar
6 [sic] for Identification from the witness and offering that this
7 exhibit, Oscar-Oscar-Oscar for Identification into evidence as
8 Defense Exhibit Oscar-Oscar-Oscar.

9 MJ: Any objection?

10 ATC[CPT MORROW]: No, objection.

11 MJ: Defense Exhibit Oscar-Oscar-Oscar is admitted.

12 **Questions continued by the civilian defense counsel [MR. COOMBS]:**

13 Q. And at the time that you filled out the DEROG, what was
14 your understanding of what that would mean for PFC Manning's security
15 clearance or potential?

16 A. What I thought it would mean was just, like, exactly what I
17 wrote -- written in my Commander's recommendation that we go forward
18 and then his security clearance would be temporarily suspended until,
19 as they say, "The matter could be adjudicated." So until a
20 determination could be made of, okay, "Does he need to keep his
21 clearance, does he not." That's about the extent of my -- what I
22 knew the DEROG was going to do.

1 Q. And so tell me if I'm correct the, your understanding
2 wasn't that a DEROG would automatically revoke clearance, just that
3 it could suspend clearance and then you could make an ultimate
4 determination?

5 A. That was my understanding at the time.

6 Q. Now, after the incident with Specialist Showman, did you
7 learn of any other instances involving PFC Manning and S-2 personnel?

8 A. Can you repeat the question, sir?

9 Q. Yeah. After this incident with Specialist Showman, were
10 you informed of any other instances involving PFC Manning and
11 personnel within the S-2 section?

12 A. Not to my knowledge, sir. Not to my memory. As far as,
13 like, I don't think he had any other issues with other people on the
14 section. I'm not sure, but ----

15 Q. Now, you indicated that your memory was that Master
16 Sergeant Adkins was the one who came to report this to you this and
17 made the recommendation of removing PFC Manning from the SCIF; is
18 that correct?

19 A. Yeah, to the best of my memory, that's right.

20 Q. Is it possible that Lieutenant Gaab was the person who made
21 that recommendation to you?

22 A. That's a possibility.

23 Q. I'm showing you what is Defense Exhibit XX.

1 A. Yeah.

2 Q. Defense November-November-November for Identification and
3 Defense Exhibit Mike-Mike-Mike for Identification.

4 A. Yeah.

5 Q. I know that's a lot of paperwork, but just without looking
6 at the substance right now, can you just kind of look at each one of
7 those and tell me if you've ever seen those memorandums before?

8 MJ: What exhibits are those?

9 CDC[MR. COOMBS]: Defense Exhibit XX and Defense Exhibit
10 November-November-November for Identification and Defense Exhibit
11 Mike-Mike-Mike for Identification, ma'am.

12 WIT: I think I may have.

13 **Questions continued by the civilian defense counsel [MR. COOMBS]:**

14 Q. Do you recall when you might have seen those memorandums?

15 A. I think it was after the assault. I don't know if it was
16 during the -- well after the assault and then the decision was made,
17 okay, "Let's go ahead and have Manning have a fit-for-duty mental
18 eval." And then when the results come back from that, if the mental
19 health eval says, "Hey, he's fit for continued service or, no, we
20 recommend that he's not," and then the next step was going to be
21 building like a separation packet for him. And I was thinking the
22 more paperwork that we have documenting some instance in the past,
23 the better or the -- I guess, more valid the packet is going to look

1 or the stronger the packet will be when it gets to the approving
2 authority, whoever that would have been at the time. But I haven't
3 seen these since probably the spring of 2010. But I'd have to read
4 the whole -- you know, each one of them in its entirety to say I did
5 -- I have seen it. But if I had to give a yes or no answer right
6 now, I would say, yes, I've seen these.

7 Q. All right. And I know it's going to take a little bit of
8 time, but I would like you to skim or read each one of those as real
9 qu -- as fast you can and still having the content because it's
10 important to determine whether or not you've seen these before PFC
11 Manning's arrest?

12 A. Okay.

13 Q. At any time as you're reading it you realize, no, I haven't
14 seen this, you can stop and say, "No, I haven't seen this."

15 A. Okay.

16 **[The witness did as directed.]**

17 A. I have seen that one.

18 Q. And which one is that that you're seeing?

19 A. XX.

20 Q. So you've seen Defense Exhibit XX before?

21 A. Yeah.

22 Q. Do you recall when you saw this?

1 A. I think it was in -- it would have had to have been May
2 2010.

3 Q. And, I'm sorry, was May 2010 the first time you saw Defense
4 Exhibit XX?

5 A. Yes, to the best of my memory that was.

6 **[There was a pause while the witness reviewed the exhibits.]**

7 A. Okay. Mike-Mike-Mike, I have seen that one as well.

8 Q. And when?

9 A. That would have been the same time.

10 Q. Again, in the May of 2010 time frame?

11 A. Yeah, I want to say I've seen these all at the same time --
12 well at least those two, so ----

13 **[There was a pause while the witness reviewed the exhibits.]**

14 A. Okay. I think I've seen the last exhibit, triple November.

15 Q. Also in the May time frame?

16 A. [Affirmative response.]

17 Q. Now having read each of these, is this the type of
18 information that you would expect, as the Company Commander, to be
19 informed of?

20 A. Yes.

21 Q. And why is that?

22 A. As the commander of any size unit, you're responsible for
23 whatever happens or fails to happen in your unit. So any kind of

1 personnel issues, I would expect be routed through the NCO chain of
2 command and then finally, you know, arrive to me.

3 Q. And with regards to Defense Exhibit XX, that was in 29
4 December 2009. That was prior to you taking command; is that
5 correct?

6 A. It was.

7 Q. Defense Exhibit Mike-Mike-Mike was 26 April 2010. And that
8 was after you're taking command?

9 A. It was.

10 Q. And finally, Defense Exhibit November-November-November,
11 the last two being for Identification, was 8 May 2010?

12 A. [Affirmative response.]

13 Q. Also after you took command?

14 A. Yes.

15 Q. Were you expected to have been informed of what happened on
16 the 26 April 20 -- around the 26 April 2010 time frame?

17 A. I would've.

18 Q. And why is that?

19 A. Can I see that exhibit again?

20 Q. Certainly. Handing the witness Defense Mike-Mike-Mike for
21 Identification.

22 [There was a pause while the witness reviewed the DE MMM.]

1 A. I was just given the text on this memorandum. It just
2 seems like it will be beneficial for me in my, I guess, determination
3 whether I want to, like, command refer him for a mental health
4 evaluation. I don't know if that's the decision I would have made at
5 the time. If I had seen that, I might have just said, "Hey, Master
6 Sergeant Adkins, can you handle it in-house? If it gets worse, let
7 me know." But, I just like to be informed. As a Commander, you
8 always want to be informed on stuff. Whether you're able to act on
9 it at the time you're given it or if you feel like you need to act on
10 it at the time you're given it, it depends on the situation, but ----

11 Q. I'm retrieving from the witness Defense Exhibit Mike-Mike-
12 Mike for Identification. Could this also have helped you be informed
13 on whether or not a DEROG or removing him from the T-SCIF would have
14 been appropriate?

15 A. I don't know if that one would have helped me make that
16 determination or not, by itself, if I was given it at the time. But
17 that in addition to the third and final one on 7 or 8 May, that
18 probably would've definitely, you know, backed up my decision.

19 Q. So with regards to the memorandum in April, did you have
20 any concern about a Soldier with the behavioral problems that were
21 addressed in there, that wouldn't, in your mind, raise an issue on
22 whether or not that Soldier should have a security clearance?

23 A. For the middle one there? The April one I just read?

1 Q. Yes.

2 A. It would have -- I don't know. I don't know if I would've
3 -- I mean, it depends on -- maybe today I would say yes, but 3 years
4 ago being brand new to the command, I might not have even thought
5 about it. I probably didn't know what a DEROG was at that time, but
6 ----

7 Q. Okay. Let's talk about where you elected to put PFC
8 Manning afterwards. You put him in the supply room; is that correct?

9 A. I did.

10 Q. And when he was in the supply room, was he seeing
11 behavioral health at that time, to your knowledge?

12 A. I believe he was. I don't know if it was a weekly basis or
13 a monthly basis, but I want to say he did have, like, some scattered
14 appointments with behavioral health even when he came to work for me.

15 Q. And was -- were these command directed or self-referrals,
16 to your knowledge?

17 A. I'm not sure. I don't think I command referred him until
18 maybe the second or third week in May. I'm not positive on that, but
19 I think that he was going to see somebody at behavioral health. I
20 want to say Captain Worsley at the time, that he had been seeing him
21 on -- I don't know how regular of a basis, but he'd seen him in the
22 past.

1 Q. And did you ever receive any report back from behavioral
2 health?

3 A. I'm not sure -- well, I did, but I don't know if I
4 requested the information or they provided it.

5 Q. Based upon what you received, did you initiate a chapter
6 action, as the Company Commander?

7 A. Yes. To the best of my knowledge, I did. I talked to
8 Captain Worsley and he did say, "Hey, I've seen, you know, PFC
9 Manning in the past. I think that his -- from what I found and from
10 our counseling sessions, he's got some deeper issues than what the
11 Army can fix right now, but don't just take my word for it, let's get
12 an unbiased opinion. Captain Critchfield is the other behavioral
13 health specialist in the brigade. Let's have him do, like, the
14 mental eval and we'll see what he says," ----

15 Q. All right.

16 A. ---- and then that's what I did.

17 Q. And do you recall ever stating that you were shocked that
18 more serious disciplinary actions hadn't been taken based upon PFC
19 Manning's behavioral issues prior to your determination to chapter
20 him?

21 A. I think I read that in the past and it seemed like,
22 "Shocked," is one of those words that would be a quote from me. But
23 I don't -- "Shocked," is not one of those words I'd use on a regular

1 basis. But, so I don't really recall saying that. So I don't really
2 know.

3 Q. All right. So now you don't ----

4 A. Yeah. I mean, I'm not -- but I've seen that in the past
5 and stuff, just reading up on the trial and I did see that I was
6 shocked that more action hadn't been taken. I don't really remember
7 saying that or not. I did find it, I guess, a little bit strange
8 that something, I guess, more severe than just having Manning go to
9 behavioral health appointments. Something, I guess, something more
10 than that hadn't done and I was a little bit surprised by that but
11 ----

12 Q. And did you ever have any conversations with Captain Lim
13 about what he knew regarding PFC Manning?

14 A. I think I may have, but I don't really remember the bulk of
15 the conversation. So I don't remember what was said. Most of my
16 information came from, like I said, Master Sergeant Adkins. He's the
17 one that provided me with the majority of the infor -- or the
18 background on Manning, so ----

19 CDC[MR. COOMBS]: Thank you. No further questions.

20 MJ: Cross-examination?

21 ATC[CPT von ELTEN]: One moment, Your Honor.

22 [There was a pause while the trial counsel conferred at the counsel
23 table.]

CROSS-EXAMINATION

Questions by the assistant trial counsel [CPT von ELTEN]:

Q. Captain Freeburg, you assumed command on 17 April 2010?

A. Correct.

Q. And after you assumed command, you spent a lot of time resolving property book issues?

A. I did. I actually -- typical to sign property book before taking command. I took command and about a week later I was actually able to sign my property book. So not the preferred method, but we didn't really have a choice at the time.

Q. On direct you testified the assault, you took -- adverse action was taken as a result of that assault, correct?

A. Yeah.

Q. A Company Grade Article 15?

A. Yes.

Q. And as a result of that adverse action, you initiated a DEROG?

A. Yes.

Q. And DEROGs are appropriate for adverse actions?

A. Yes. I mean, it really depends. I would say they might be, like, Commander's preference. There's -- I would say depends on the type of offense. Maybe what MOS the Soldier has pending, you know, adverse action, what position he holds. So, in this case,

1 knowing what little I did know about DEROGs and Manning having Top
2 Secret clearance and it being an assault and just you know the
3 location where he worked, I thought it would be appropriate, so ----

4 Q. DEROGs aren't appropriate for every outburst, are they?

5 A. I would say not. It depends on -- I would say it depends
6 on the Commander. It's kind of Commander's discretion. Like, if I
7 would said if I had a Soldier that disrespected NCO, I was going to
8 give him a Company Grade Article 15, I don't know if I would initiate
9 a DEROG or not to suspend his clearance for that. I would almost
10 have to make that Commander's determination on what type of offense
11 and it would be a case-by-case basis type of analysis on it.

12 Q. Would you agree that sometimes NCOs handle outburst issues?

13 A. I would say they do.

14 Q. And would you agree ----

15 A. Most times they do.

16 Q. And would you agree that NCO don't have a report every
17 outburst to the officer?

18 A. I agree.

19 Q. After you were turtl -- told of the assault, you also
20 initiated a health evaluation; is that correct?

21 A. Yes.

1 Q. And you had never been told prior to that initiation by a
2 medical professional that PFC Manning should be separated from the
3 Army?

4 A. No, not until after the fact. After that assault.

5 Q. And after you were told -- given a recommendation by a
6 medical professional to separate PFC Manning, you took action; is
7 that correct?

8 A. Yes.

9 Q. And the action you took was to initiate a separation?

10 A. Yes.

11 ATC[CPT von ELTEN]: Thank you.

12 CDC[MR. COOMBS]: No redirect, Your Honor.

13 **[The witness was temporarily excused, duly warned, and withdrew from**
14 **the courtroom.]**

15 CDC[MR. COOMBS]: Ma'am, the defense's next witness is
16 telephonic, Captain Michael Johnson. So we'll need just a moment to
17 get him on the line, so ----

18 MJ: You want to take a 10-minute recess and try to make all
19 that happen?

20 ATC[CPT MORROW]: Yes, ma'am.

21 MJ: Is 10 minutes enough?

22 CDC[MR. COOMBS]: Yes, it is, Your Honor.

1 MJ: All right. Court is recess then until 5 minutes after 1500
2 or 3:00.

3 [The court-martial recessed at 1457, 12 August 2013.]

4 [The court-martial was called to order at 1509, 12 August 2013.]

5 MJ: Court is called to order. Let the record reflect all
6 parties present when the court last recessed are again present in
7 court.

8 Mr. Coombs, are you ready to proceed?

9 CDC[MR. COOMBS]: Yes, Your Honor. The defense calls Captain
10 Michael Johnson for a telephonic testimony. Captain Johnson, can you
11 hear me?

12 WIT: Yes, sir.

13 CDC[MR. COOMBS]: Captain Johnson, the trial counsel's is going
14 to swear you in.

15 CAPTAIN MICHAEL JOHNSON, U.S. Army, was called as a witness for the
16 defense, was sworn, and testified telephonically as follows:

17 **DIRECT EXAMINATION**

18 **Questions by the assistant trial counsel [CPT von ELTEN]:**

19 Q. Do you have any papers with you?

20 A. I have a notepad and pencil right next to the phone here.

21 Q. Please put that underneath your seat.

22 A. Understood.

23 Q. Are you by yourself?

1 A. I am.

2 Q. Are you in a place where you are able to testify freely?

3 A. Yes.

4 Q. Should anything interrupt your testimony, please notify the
5 court.

6 A. Understood.

7 Q. And for the record, you're Captain Michael Johnson of the
8 4th Brigade of the 25th ID?

9 Q. That is correct.

10 ATC[CPT von ELTEN]: Thank you.

11 **Questions by the civilian defense counsel [MR. COOMBS]:**

12 Q. And Captain Johnson, were you ever assigned to the 2nd BCT
13 of 10th Mountain Division?

14 A. Yes.

15 Q. And when was that?

16 A. My initial assignment was February of 2008 through October
17 of 2010.

18 Q. And what was your job when you were with the 2nd BCT?

19 A. My initial job was 19 months as a Signals and Intelligence
20 platoon leader and I spent the remainder of my tour as the Collection
21 Manager of the Brigade S-2 shop.

22 Q. When did you switch over to the Collection Manager of the
23 S-2 shop?

1 A. Approximately 30 days prior to the deployment. I would say
2 -- I don't have my ORB right in front of me, but, roughly speaking,
3 September of 2009.

4 Q. And did you ever approach the then S-2 Major Clausen
5 regarding your initial counseling?

6 A. Regarding initial counseling, yes.

7 Q. And did they ever provide you with a written counseling for
8 what your job would entail and what your duties were?

9 A. No.

10 Q. What was your understanding of your responsibilities when
11 you switched over to assume your new position?

12 A. Collection management and then just something I took from
13 my previous assigned Commander, was Paul Walters, was regardless of
14 whether you're on staff or not, you're still a leader.

15 Q. Did you ever state that you kind of felt your job was a
16 bunch of, "Hey you, taskers?"

17 A. Yes, most definitely.

18 Q. And why did you feel that way?

19 A. Essentially, there was no direction as far as what was
20 going on in the S-2 shop prior to our deployment and in the initial
21 stages of our deployment. So there was delineation of tasking.

22 Q. Now, when did you arrive in Iraq?

1 A. I can't recall the exact date. I believe it was November
2 or December of 2009.

3 Q. And what was your duty position when you deployed?

4 A. It was collection management.

5 Q. Did you ever move to work into -- inside the SCIF?

6 A. Yes ----

7 Q. And when ----

8 A. ---- about half ----

9 Q. I'm sorry ----

10 A. Sorry, you're ----

11 Q. ---- go ahead.

12 A. About halfway through our deployment I was working out of
13 the top floor and Captain Lim, the S-2 at the time, and I had
14 discussed the fact that being on the top floor was actually
15 detrimental to my ability to do my job effectively. So we moved back
16 into the SCIF where I was able to actually focus on the intelligence
17 production portion instead of ISR reallocation.

18 Q. And did you have any enlisted Soldiers that worked for you
19 when you moved into the SCIF?

20 A. Into the SCIF? I still maintained oversight of Specialist
21 August Dobins [Phonetic]. However, he was not co-located with me. I
22 was also responsible for all the Soldiers of the current operations
23 desk.

1 Q. And did you believe, I guess based upon your position, that
2 you had a responsibility to counsel and discipline these Soldiers if
3 needed?

4 A. Yes.

5 Q. And why did you feel that way?

6 A. Because I'm a leader.

7 Q. Did you ever engage Soldiers on enlisted matters?

8 A. Yes.

9 Q. And when you did that, were you ever told that you were not
10 to deal with enlisted matters by anyone in the S-2 section?

11 A. Yes.

12 Q. And who told you that?

13 A. Specifically, Master Sergeant Adkins and then when I took
14 the issue up to my leadership, initially Major Clausen, I was told to
15 back off, that Master Sergeant Adkins would deal with it and then
16 later Captain Lim, essentially the same answer.

17 Q. And what enlisted matters were you trying to deal with as a
18 leader ----

19 A. My initial ones ----

20 Q. ---- in general?

21 A. My initial ones were we had two Soldiers that had promoted
22 and they had not been pinned on their rank. So they were receiving
23 the pay and then showing up on their ERB that they achieved the rank

1 of specialists and they had not been pinned. I found out about this
2 through passing and I brought the issue to Master Sergeant Adkins. I
3 was notified that they had not earned the rank and at which point I
4 reminded him that that was our duty to do that beforehand, before
5 they achieved -- or before the rank was associated with them. Once
6 they -- once it shows up on the ERB, you know, we have to pin them.
7 And that was one of the first issues I took from Major Clausen.

8 Q. Now, in addition to you, from your perspective, were other
9 leaders stripped of supervisory and disciplinary responsibility over
10 enlisted Soldiers?

11 A. Yes. I cannot recall his name. There was an E-5 who
12 worked in the S-2 shop as well. Shaver sticks out in my head. But
13 he deployed out with me on the advance party as well and he and I
14 talked at length about the fact that he was not treated as a team
15 leader or a squad leader and essentially all leadership was directed
16 right through Master Sergeant Adkins.

17 Q. And from your perspective as a leader, was Master Sergeant
18 Adkins enforcing standards?

19 A. No.

20 Q. Was the S-2, Major Clausen, from your perspective,
21 enforcing standards?

22 A. No.

1 Q. Based upon your perception, how would you describe the
2 leadership provided within the S-2 section?

3 A. Regarding specifically Major Clausen, we would refer to him
4 as an absentee leader. He was separated physically from the S-2
5 shop, he worked in a separate area. Both deployed in war and in the
6 rear. So we see him maybe once a day. He would just kind of pop his
7 head in, smile at everybody, tell everybody they were doing a great
8 job, and then punch out. So most of the leadership came down to
9 Captain Martin, I believe she's now Captain Fulton and then later
10 Captain Lim.

11 Q. From your perspective, was there a clear chain of command
12 and responsibility within the S-2 section?

13 A. Chain of command, yes. Responsibility, no. Chain of
14 command is very simple. But the responsibility -- who is responsible
15 for what tasks and who was -- you know, what sections were
16 responsible for that was not clear, no.

17 Q. Within the S-2 section, who did Major Clausen allow to
18 essentially run the S-2 section?

19 A. Pat Martin was the person doing the privacy of the day-to-
20 day operation of S-2 shop and then Master Sergeant Adkins was running
21 the enlisted side and that was one of the friction points, was we did
22 not have -- we didn't have Soldiers who were dedicated to specific
23 tasks.

1 Q. And what do you mean by that?

2 A So a request for analytic product would come in and just
3 essentially it would just go to whoever was immediately available.
4 So you -- just working with the analyst you have to give them a
5 problem set. Otherwise, they fail to be good at it. You're always
6 starting off at base one instead of -- instead of giving them -- I
7 don't want to say, a reduction or assembly line, but you allow them
8 to analyze in depth. Say what we were doing is we were just doing
9 random taskings and the Soldiers never actually developed a depth of
10 the task.

11 Q. Within the S-2 section was there a clear rating chain?

12 A. Yes.

13 Q. And how did the leadership rating chain scheme work, from
14 your perspective?

15 A. Captain Lim -- do you want me to focus on Captain Lim or
16 Major Clausen?

17 Q. Let's go ahead and deal with Major Clausen first.

18 A. Okay. Major Clausen rated me and rated Captain Martin.
19 Captain Martin rated the lieutenants, Lieutenant Gaab and Liz --
20 Lieutenant Fields. And then Major Clausen rated Master Sergeant
21 Adkins and, from there, Master Sergeant Adkins rated the -- as well
22 as Chief Ehresman, Master Major Clausen rated Chief Ehresman, and
23 then Master Sergeant Adkins rated the enlisted Soldiers by rank.

1 Q. With regard -- why was Master Sergeant Adkins rating the
2 enlisted Soldiers as opposed to, I guess, the first line supervisors
3 for enlisted Soldiers?

4 A. I gu -- to elaborate on that, Master Sergeant Adkins would
5 rate, you have, Sergeant Balonek and I cannot remember his name, but
6 the other E-5 in the shop. And so he rated them and then those two
7 were responsible for giving the 10-level Soldiers their monthly
8 counselings.

9 Q. Okay. Now, I want to ask you a few questions about your
10 observations of PFC Manning. Okay?

11 A. Yes, sir.

12 Q. What was the first issue that you noticed with PFC Manning,
13 as far as a behavioral issue?

14 A. Just odd behavior and in the rear we also noticed that he
15 attendance issues, generally tardy.

16 Q. In December of 2009, did you ever witness an issue
17 involving PFC Manning and Specialist Padgett?

18 A. I did not witness it. However, I'm very aware of the
19 situation. Specialist Padgett came to me for advice. The night
20 prior, I advised him to counsel Private, or Specialist Manning and
21 then the next morning we came in there was the incident with the
22 table flipping.

1 Q. And with regards to the table flipping incident, were you
2 present at that point?

3 A. No.

4 Q. Were you later made aware of what happened during that time
5 period?

6 A. Yes.

7 Q. And based upon what you found out happened, did you address
8 your concerns with Major Clausen and Master Sergeant Adkins?

9 A. Yes.

10 Q. And what were your concerns that you were addressing with
11 him?

12 A. Primarily that Specialist Manning needed to be squared
13 away. The -- it's not uncommon for 35 Foxes to be high maintenance,
14 but he had crossed the line.

15 Q. And when you went to Master Sergeant Adkins and Major
16 Clausen to express your concerns, what were you told?

17 A. When I went to Master Sergeant Adkins and said he had it
18 and then when I went to talk to Major Clausen about it he told me to
19 let Master Sergeant Adkins deal with it.

20 Q. Do you know what a DEROG is?

21 A. Yes.

22 Q. And how do you know what a DEROG is?

1 A. Well, now I'm Company Commander for an Intelligence
2 Company, so I'm unfortunately very familiar with them. But at the
3 time I was familiar with it, I had one Soldier during my time as a
4 Platoon Leader who had a DEROG due to a lack of loyalty and so I am
5 familiar with a Commander's requirements to report to CFFC, I believe
6 is the acronym, but the Clearance Center, that a Soldier had
7 derogatory reporting on him.

8 Q. And what is the goal, from your perspective, of reporting
9 DEROGs in capturing that information when somebody has done something
10 that warrants a DEROG?

11 A. To report that their clearance has been locally suspended
12 by the SSO, as well as to notify for future investigation, either at
13 that time or for immediate purposes or later on when they
14 reinvestigated. That incident needs to be investigated specifically.

15 Q. Based upon what you perceived, did you ever form an opinion
16 whether or not PFC Manning should have received a DEROG?

17 A. No.

18 Q. Did you ever ----

19 A. No, I did not form an opinion.

20 Q. Okay. Did you ever discuss that with anyone?

21 A. Not to my recollection.

22 Q. And in the December time frame, from your memory, did
23 anyone raise the issue of the possibility of a DEROG?

1 A. Not to my recollection.

2 Q. Captain Johnson, the trial counsel's going to have a few
3 questions for you. Okay?

4 A. Yes, sir.

5 CDC[MR. COOMBS]: All right. Thank you.

6 ATC[CPT von ELTEN]: May I have a moment, Your Honor?

7 MJ: Yes. Captain Johnson, this is the military judge, Colonel
8 Lind. The government is conferring for a few minutes and we'll be
9 right with you.

10 WIT: Yes, ma'am.

11 [There was a pause while the trial counsel conferred at the counsel
12 table.]

13 **CROSS-EXAMINATION**

14 **Questions by the assistant trial counsel [CPT von ELTEN]:**

15 Q. Captain Johnson?

16 A. Yes, sir.

17 Q. How often did you see PFC Manning?

18 A. On a daily basis up until he was removed from the S-2 shop.

19 Q. And how often did you interact with him?

20 A. Aside from impacting interaction, very little. We had a --
21 at the very beginning of the deployment, I took a few of the Soldiers
22 over to the gym to try to show them bas -- some workouts. He came
23 with us and I believe I had one more one-on-one work out with him,

1 two total was may -- probably was the limit of my one-on-one
2 interaction with him.

3 Q. Why did you take PFC Manning to the gym?

4 A. Well, that's for morale. He seemed to take an interest in
5 my going to the gym and, you know, a couple of the Soldiers were
6 asking about it. So I invited them all out to come out and I wanted
7 them, in this case, you know, it can get lonely on deployments if
8 you're shut off.

9 Q. And what happened after you up took him to the gym the
10 second time?

11 A. I think I pushed him too hard, honestly, and he never went
12 again. I invited him a few more times, you know, he didn't seem
13 interested.

14 ATC[CPT von ELTEN]: Thank you.

15 WIT: Yes, sir.

16 CDC[MR. COOMBS]: No redirect, Your Honor.

17 MJ: Captain Johnson, this is the military judge again. I have
18 one question.

19 WIT: Yes, ma'am.

20 **EXAMINATION BY THE COURT-MARTIAL**

21 **Questions by the military judge:**

22 Q. Why is it not uncommon for 35 Foxes to be high maintenance?

1 A. Ma'am, I wish there was a better answer, but I've
2 interacted with hundreds of 35 Foxes throughout the 7 years I've been
3 an MI officer and they -- for whatever reason they tend to have sense
4 of entitlement. To elaborate, my Brigade Commander upon my command's
5 -- my Company Commander's in brief are talking about the sense of
6 entitlement that my company has and that was one of the goals was to
7 eliminate that sense of entitlement. And we get these Soldier right
8 out of AIT feeling that they're better than the average Soldier and
9 most definitely that they're smarter than the majority of the
10 leadership. Due ----

11 Q. Any follow up ----

12 A. --- to this -- I'm sorry, ma'am.

13 Q. Go ahead, proceed. I'm sorry, I thought you were finished
14 with your answer. Proceed.

15 A. Due to this, they tend to be -- they tend to question
16 authority a lot. They tend to question their orders and their
17 leadership. They typically have a problem with authority, not to the
18 point of being disrespectful but just pushing their limits, not
19 paying attention, not standing at parade rest, not referring to their
20 leaders by their position or grade and then if they -- they'll move
21 on from there.

22 MJ: Thank you. Any follow up based on that?

23 CDC[MR. COOMBS]: No, Your Honor.

1 ATC[CPT VON ELTEN]: No, Your Honor.

2 MJ: All right. Want to permanently excused or temporarily
3 excuse this witness?

4 CDC[MR. COOMBS]: Permanently, Your Honor.

5 MJ: All right. Captain Johnson, thank you very much.

6 [The witness was permanently excused and the telephonic interview was
7 ended.]

8 CDC[MR. COOMBS]: Your Honor, the defense calls Lieutenant
9 Elizabeth Fields to the stand.

10 [Busy signal in the background.]

11 MJ: Could we have somebody fix the phone.

12 [The phone connection was terminated.]

13 LIEUTENANT ELIZABETH FIELDS, U.S. Army, was called as a witness for
14 the defense, was sworn, and testified as follows:

15 DIRECT EXAMINATION

16 Questions by the assistant trial counsel [CPT von ELTEN]:

17 Q. And for the record, you're Captain Elizabeth Fields 513th
18 MI Battalion ----

19 A. Yes, sir.

20 Q. ---- Brigade?

21 A. Yes, sir.

22

23

1 Questions by the civilian defense counsel [MR. COOMBS]:

2 Q. Captain Fields, were you ever assigned to the 2nd BCT, 10th
3 Mountain?

4 A. Yes, sir.

5 Q. And when was that?

6 A. That was from April of 2009 until October of 2011.

7 Q. And what was your ----

8 A. 2012, I'm sorry.

9 Q. Okay. And what was your job with the second 2nd BCT?

10 A. My job was initially, I worked up at brigade. I was in the
11 brigade intel shop. Then I eventually became a -- the -- was for the
12 Bravo Company, I was an Executive Officer. And, lastly, I was the
13 Battalion Maintenance Office for 2 BSTB.

14 Q. And did you ever -- within the SCIF, did you ever work in
15 the SCIF?

16 A. I did, sir.

17 Q. And what was your job there?

18 A. My job there, I was a Sunni Team Analyst.

19 Q. Now, in addition to your other duties, were you ever given
20 the responsibility of the Specification -- as you said, Special
21 Security Representative for the 2nd BCT?

22 A. I was not on official orders.

23 Q. You were not on official orders?

1 A. Correct.

2 Q. Were you ever given that responsibility?

3 A. No, sir.

4 Q. Did you ever serve in that responsibility at all?

5 A. No. I did up at Drum, sir.

6 Q. Okay. And what did you do when you were at Drum?

7 A. When I was at Drum, I was the SSR which is the Special
8 Security Representative. In addition, I also worked in the brigade
9 intel shop. So you could be calling me the Assistant Brigade
10 Officer.

11 Q. And what sort of training did you need to become the
12 Brigade SSR at Fort Drum?

13 A. At Fort Drum, I worked with the SSO, it was Mr. Jeffrey
14 Gerrish [Phonetic] up at 10th Mountain, the Division Headquarters
15 where he worked. And I would just coordinate with him any time I
16 needed anything.

17 Q. Did you receive an hour long course in order to be
18 certified as a Brigade SSR?

19 A. I don't know the length, but I did receive a course.

20 Q. And in addition to that course, did you receive any other
21 training?

22 A. No, that was all I can recall.

1 Q. And were you selected or were you -- did you volunteer for
2 the SSR?

3 A. I was told I was going to do it.

4 Q. And what month did you arrive in Iraq?

5 A. It was October of 2009.

6 Q. And you indicated that you weren't -- you were not the SSR
7 when you got to Iraq?

8 A. Correct.

9 Q. Who was the SSR for your unit?

10 A. I don't know who was on orders to be the SSR.

11 Q. Do you know who served that position?

12 A. I don't know.

13 Q. Did Master Sergeant Adkins ever serve in that position?

14 A. He assumed security responsibilities.

15 Q. And would that be what the SSR does?

16 A. The SSR, yes, it encompasses a wide range of things. But
17 that was one of the duties.

18 Q. And why was he assuming that duty, do you know?

19 A. I don't know.

20 Q. Do you know if he received any training to fulfill that
21 role?

22 A. I don't know.

1 Q. And I'm going to tap into some of your experience just to
2 see if this would fall within the duties of an SSR, okay?

3 A. [Affirmative response.]

4 Q. Am I correct in saying that all thumb drives, data sticks,
5 external hard-drives, USB ports are expressly prohibited within the
6 T-SCIF?

7 A. That's correct.

8 Q. And that's one of the duties of the SSR, to ensure that
9 thumb drives, data sticks, external hard-drives, USB ports are part
10 -- within the T-SCIF?

11 A. That is correct.

12 Q. And why do we prohibit those devices?

13 A. From my understanding, I know there was a security
14 violation years ago in terms of thumb drives. So it was told no
15 thumb drives can be allowed in the SCIFs, when I came into the Army.

16 Q. And what about CDs? Are CDs and DVDs supposed to be
17 inventoried, approved and signed for by the SSR?

18 A. As of right now or what date?

19 Q. As of the time of the deployment.

20 A. The deployment? To my knowledge, yes.

21 Q. And was that being done by Master Sergeant Adkins as far
22 accounting for and inventorying, all CDs and DVDs within the T-SCIF?

23 A. I don't know if that was his role.

1 Q. Do you know if anyone was doing that?

2 A. No.

3 Q. Do you believe that was being done?

4 A. No, I don't know.

5 Q. You don't know or you don't believe that was being done?

6 A. I don't know.

7 Q. Do you know, with regards to Master Sergeant Adkins being

8 the SSR, what he did to ensure accountability of media such as CDs?

9 A. No.

10 Q. Do you recall indicating in a sworn statement that you

11 believe that there was no accountability over CDs?

12 A. Correct.

13 Q. And is that what you believe here today?

14 A. I can't remember, sir.

15 Q. What I'm going to do is have your sworn statement marked.

16 I'll let you look at that to refresh your memory ----

17 A. Okay.

18 Q. ---- and then I'll ask you the question, okay?

19 A. Okay.

20 **[There was a pause while the defense marked the statement as a**

21 **Defense Exhibit.]**

22 Q. Captain Fields, I'm showing you what's been marked as

23 Defense Exhibit Papa-Papa-Papa for Identification. If you would,

1 please, just go ahead and take a look at that for a moment, thumb
2 through the pages. And then look at me after you've had a chance to
3 look at that document. And you don't need to read the document, kind
4 of peruse the document to see what it is.

5 **[The witness did as directed.]**

6 A. Okay.

7 Q. Do you recognize this document?

8 A. I do.

9 Q. What is it?

10 A. It is my sworn statement that I gave back in -- there is no
11 date -- it was January 18th, 2011.

12 Q. What I'm going to do is I'm going to direct your attention
13 to the second page and I want you to go ahead and just read silently
14 to yourself basically from the question, "Did Major Clausen give any
15 guidance on bringing CDs and DVDs into the SCIF," down to, "There was
16 no accountability of the media." Just kind of read that to yourself.

17 **[The witness did as directed.]**

18 A. Okay.

19 Q. All right. I'm retrieving Defense Exhibit Papa-Papa-Papa
20 for Identification. Does that refresh your memory?

21 A. It does, sir, at the time. I can't -- as of right now, I
22 don't recall any procedures. So if I were to say, "Yes," or "No," I
23 can't provide you with any examples.

1 Q. I guess my question is, does your refresh memory on whether
2 or not there was accountability of CDs within the SCIF?

3 A. No, sir.

4 Q. It does not refresh your memory ----

5 A. No, because I can't -- I can't recall any examples of
6 whether or not people did take accountability or not.

7 Q. At the time -- I'm retrieving again Defense Exhibit Papa-
8 Papa-Papa for Identification. Handing the witness Defense Exhibit
9 Papa-Papa-Papa for Identification. At the time that you wrote this
10 sworn statement, did you have a memory of the events that were within
11 the sworn statement?

12 A. At the time, I'm assuming I did.

13 Q. And the question -- do you recall why you were giving this
14 sworn statement at the time?

15 A. I was told we were conducting an AAR to see what happened
16 here for the case and to see if we can make any procedures in the
17 future that can correct this.

18 Q. And when you were asked questions and you were giving
19 responses, was it important to you to give accurate responses?

20 A. Yes, it was. It was a sworn statement, you have to.

21 Q. And I imagine, then, you gave responses to the best of your
22 recollection?

23 A. Yes, sir.

1 Q. And those were the -- what you recalled at that point?

2 A. Yes, sir.

3 Q. Retrieving Defense Exhibit Papa-Papa-Papa for
4 Identification. Within Defense Exhibit Papa-Papa-Papa for
5 Identification -- and actually showing, again, the witness the
6 exhibit. I'm going to read this section out loud and just tell me if
7 I'm reading this correctly, okay?

8 A. [Affirmative response.]

9 Q. "Did Major Clausen give any guidance on bringing CDs and
10 DVDs into the SCIF?" Answer: "Initially, they weren't allowed in
11 the SCIF, but then they slacked off and then -- and they were brought
12 into the SCIF so they could play mu sic on the computers."

13 Question: "Was it simply accepted?" Answer: "Yes." Question: "How
14 did you ensure accountability of the media?" Answer: "There was no
15 accountability of the media."

16 Did I read that correctly?

17 A. Yes, you did.

18 Q. Based upon your perception, how would you describe the
19 leadership provided within the S-2 section?

20 A. Which leadership?

21 Q. Your officer and enlisted leadership.

22 A. I'd say that they performed to the best of their ability,
23 sir.

1 Q. Was there a clear chain-of-command within the S-2 section?

2 A. Yes, sir.

3 Q. How did Master Sergeant Adkins provide supervisory
4 responsibility to enlisted Soldiers, from your perspective?

5 A. From my perspective, is that he performed to the best of
6 his ability.

7 Q. Okay. I show you again Defense Exhibit Papa-Papa-Papa for
8 Identification. And again, I'm going to go ahead and read something.
9 You tell me if I'm saying this correctly. Okay?

10 A. [Affirmative response.]

11 Q. Question: "From your perspective as a Sunni Analyst, how
12 did Master Sergeant Adkins provide supervisory responsibility?"

13 Answer: "I thought it was terrible because the problems were
14 ignored, such as mental problems. He tried to keep it to himself.
15 Key problem was Manning and when the problems came up I was told that
16 it was an NCO problem and stay out of it."

17 A. [Affirmative response.]

18 Q. Did I read that correctly?

19 A. You did, sir.

20 Q. Now, is that your memory -- do you still believe that the
21 supervisor, Master Sergeant Adkins supervisory responsibility was
22 terrible?

1 A. No. Based on when I wrote that statement, I was a Second
2 Lieutenant, you know, just being promoted a First Lieutenant. Now a
3 Captain, looking at taking a company command here soon, and with that
4 experience that I've gained I now have a new perspective in looking
5 back and I've seen that everyone performed to the best of their
6 ability that they could have done.

7 Q. Okay. So maybe it's just a matter of timing -----

8 A. It's more time and experience ----

9 Q. All right.

10 A. ---- in the Army.

11 Q. As a first lieutenant, at the time that you wrote this
12 sworn statement, you believed Master Sergeant Adkins supervisory
13 responsibility was terrible because problems were ignored?

14 A. Correct.

15 Q. Now, as a captain, you don't believe that's correct or you
16 do believe that is correct, but he performed to the best of his
17 abilities?

18 A. I believe he performed to the best of his abilities and
19 here's why. In looking back now, I did not have a supervisory role
20 over Master Sergeant Adkins. So due to that, I could not tell you
21 how he performed his job accurately.

1 Q. Okay. I guess, though -- do you believe, now as a captain,
2 that he provided terrible supervisory responsibility and that he
3 ignored problems?

4 A. No, sir. I can't answer that because I didn't see him from
5 a supervisor's role.

6 Q. Do you believe now as a captain that mental problems were
7 being ignored and he tried to keep it to himself?

8 A. I can't answer that because I don't know what issues were
9 brought to him.

10 Q. But apparently you believed that as a first lieutenant?

11 A. I did at the time, yes, sir.

12 Q. All right. Explain to me why you believed that at the
13 time?

14 A. I can't tell you why I had written that at the time, sir.

15 Q. Well, again, you expressed that it was important to be
16 honest, it was a sworn statement. I believe your words were, "Yeah,
17 you got to be very honest in a sworn statement." So why would you
18 say that in a sworn statement?

19 A. Because, at the time, I had little experience in the
20 military. So I'm looking at -- it's typical when you get to a new
21 unit you start judging people who are around you and so it was just
22 my initial impression. However, after gaining more experience, I
23 realize that you have to look people in a different light.

1 Q. All right. Well, I'll first ask you this. Did you ever
2 say that there was a lack of leadership across-the-board?

3 A. I did say that in a sworn statement.

4 Q. All right. Do you believe that now, today, as you sit
5 there?

6 A. Negative, sir.

7 Q. So at the time you gave the sworn statement, you believed
8 within S-2 section there was a lack of leadership across-the-board
9 but, today, you don't believe that?

10 A. Yes, sir.

11 Q. And what changed between the time that you wrote this sworn
12 statement and today? I know you said you got promoted, but what
13 issue caused you to look back and say, "You know what, when I said
14 there was a lack of leadership across-the-board within the S-2
15 section I wasn't quite accurate?"

16 A. Correct, sir. When I said that at the time, I was doing
17 the typical -- often times when lieutenants get in the Army, you make
18 pre-judgments about people without knowing or seeing because you
19 haven't served in those positions yet. But now that I've gained more
20 experience in the Army, I realize that you can really only judge
21 people that you are in control of because you're the one giving them
22 the tasks, you're the one seeing what they have to do on a day-to-day
23 basis. So that's why I'm now refuting that statement that I had once

1 said initially. I realize that, "Hey, I cannot give an accurate
2 assessment of whether or not they performed their job, because of the
3 fact that I was not in charge of them."

4 Q. Okay. But as far as leadership, you were a first
5 lieutenant, correct?

6 A. Yes, sir.

7 Q. So there were people above you within the S-2 section?

8 A. Yes, sir.

9 Q. Imagine you could -- could you opine on the leadership you
10 received from those individuals?

11 A. Excuse me?

12 Q. Could you opine -- could you make an opinion regarding the
13 quality of leadership that you received from individuals above you?

14 A. Not an accurate one, sir, because I don't know what they do
15 on a day-to-day function.

16 Q. Okay. I want to ask you a few questions about PFC Manning.
17 All right?

18 A. [Affirmative response.]

19 Q. Do you recall -- well, first of all, what's the first issue
20 that you recall noticing with regards to PFC Manning and any sort of
21 behavioral problems?

22 A. The first behavioral issue I recall, I believe it was
23 December or January. Agai -- the term is not corre -- I don't --

1 forget what month it was. Was he was being counseled by Specialist
2 Padgett. And I remember I just -- I was sitting down at my desk, it
3 was in another room, I heard a table, it was lifted. There was a lot
4 of noise and commotion and when I walked in the room I had seen that
5 Manning was being restrained by -- I can't remember if it was Padgett
6 or Chief Ehresman.

7 Q. All right. And so you hear -- let's go back a little bit,
8 I guess. You said you heard a scream?

9 A. Well, not a scream. I heard a table lift ----

10 Q. Okay.

11 A. ---- like almost the sound of when you move a table.

12 Q. And what caused you to want to get up and, I guess, go look
13 to see what was going on?

14 A. Because there a loud thump, sir.

15 Q. Did you hear anything else besides the table?

16 A. No, sir.

17 Q. And then where were you at when you heard the table?

18 A. I was sitting at my desk, sir.

19 Q. And where was that in relation to where PFC Manning, Chief
20 Ehresman, and Specialist Padgett were?

21 A. Sir, it's almost like I'd be sitting right here and maybe
22 that door would be the room, but the door was faced against that
23 wall.

1 Q. Let the record reflect the witness pointed towards a door
2 that was approximately 15 feet to 20 feet away from you. Would you
3 agree with that estimation?

4 A. Yes, sir.

5 Q. So when you heard the noise, what did you do?

6 A. I just got up, sir, and I wanted to see what was going on.

7 Q. And when you got -- when you walked into that area, what
8 did you see?

9 A. I saw that PFC Manning was being restrained by either
10 Specialist Padgett or Chief Ehresman. I know they were both in
11 there. I don't remember who physically had him restrained.

12 Q. And then what happened, from your perspective?

13 A. And then I went back. Chief Ehresman said he was going to
14 take care of it and, from my knowledge, it was reported to Master
15 Sergeant Adkins, but I did not see that or physically see it being
16 reported to Master Sergeant Adkins. It's just my knowledge that I
17 have from rumor.

18 Q. Okay. What did you find out -- what did you know, from
19 your position, happened within the counseling session between
20 Specialist Padgett and PFC Manning?

21 A. I don't know. All I know is he was being counseled.

22 Q. You never found out the circumstances of why the table was
23 lifted or what -- or why someone was restraining PFC Manning?

1 A. No, I just know he was being counseled and supposedly he
2 got angry about it.

3 Q. And you know of no other facts?

4 A. No, sir.

5 Q. And after the incident, what happened with PFC Manning?

6 A. Aft -- he was still -- I don't know what administrative
7 action had been taken against him.

8 Q. Did you talk to Master Sergeant Adkins about what you saw?

9 A. It was either that -- there was an incident -- I did talk
10 to Master Sergeant Adkins at one point ----

11 Q. And we'll get to that one. But with ----

12 A. Okay.

13 Q. ---- regards to this incident, did you ever speak to Master
14 Sergeant Adkins about it?

15 A. This may have been the incident I talked to him about. I
16 don't remember what the incident was about, but I did approach Master
17 Sergeant Adkins at one point and I said, "Hey, what are we doing
18 about this Soldier?" He said, "Ma'am, it's an NCO issue" and, based
19 on past training I received, I've always been told, "NCOs have their
20 lane, officers have their lane." So I left it as is.

21 Q. All right. Now, there was another incident. Do you recall
22 seeing PFC Manning on the floor in the supply room?

23 A. Supply room? No, sir.

1 Q. Or a conference room?

2 A. N ----

3 Q. Did you ever recall seeing PFC Manning on the floor of a
4 room?

5 A. No, sir.

6 Q. Do you ever recall a time in which Master Sergeant Adkins
7 was talking to PFC Manning while he was on the floor rocking back and
8 forth?

9 A. No, sir.

10 Q. You don't recall that at all?

11 A. I can't recall that issue as of today.

12 Q. I'm going to go ahead and just give you some facts, see if
13 this jogs your memory, okay?

14 A. [Affirmative response.]

15 Q. Do you recall ever saying to CID that there was another
16 incident in which Master Sergeant Adkins found PFC Manning in the
17 supply room and PFC Manning was rocking back and forth what you
18 believed to be an hour? Do you recall that at all?

19 A. I cannot recall an incident, sir.

20 Q. Do you have any memory problems or issues?

21 A. I do not, sir.

22 Q. So, I guess when you say you don't recall it, do you
23 believe that didn't happen or do you believe you just don't remember?

1 A. I seriously, sir, I cannot remember anything of that -- I
2 never witnessed anything like that.

3 Q. What's the next issue that you recall regarding PFC
4 Manning?

5 A. I don't recall any more, sir.

6 Q. How long did you remain in your position within the SCIF?

7 A. Until March of 2010, sir.

8 Q. And then where did you go?

9 A. I became the Bravo Company Executive Officer.

10 Q. And did you have any -- when you came that -- when you went
11 to that position, did you have any involvement within the S-2
12 section?

13 A. I did not, sir. Wait, I had Soldiers who worked in there
14 and we had property that was in there, but other than that ----

15 CDC[MR. COOMBS]: Thank you. No further questions.

16 MJ: Government?

17 ATC[CPT VON ELTEN]: One moment, Your Honor.

18 MJ: [Affirmative response.]

19 **[There was a pause while the trial counsel conferred at the counsel**
20 **table.]**

21 ATC[CPT von ELTEN]: Nothing, Your Honor.

22 MJ: I just have a couple.

23

EXAMINATION BY THE COURT-MARTIAL

2 Questions by the military judge:

3 Q. Do you remember how many sworn statements you made with
4 respect to this case?

5 A. I do not, ma'am.

6 O. Was it more than one?

7 A. Yes, ma'am.

8 0. Less than five?

9 A. Possibly, ma'am. The way it worked is, we were initially
10 called in, there were multiple parties who talked to us. It was a
11 mixture of I was just informed, "Hey, this is for an AAR," and I was
12 called back on several occasions.

13 Q. If you made statements in -- I mean, I understand your
14 opinion has changed now because of your experience ----

15 A. Yes, ma'am.

16 Q. ---- with respect to Master Sergeant Adkins and I think the
17 leadership traits; if you made factual statements about something
18 happening or not happening in these prior statements that you made,
19 would they have been true?

20 A. Yes and -- yes.

21 Q. Even if you don't remember them today?

22 A. Yes, ma'am.

23 MJ: All right. Any follow-up based on that?

1 CDC[MR. COOMBS]: No, Your Honor.

2 ATC[CPT VON ELTEN]: No, Your Honor.

3 **[The witness was temporarily excused, duly warned, and withdrew from**
4 **the courtroom.]**

5 CDC[MR. COOMBS]: Ma'am, that is all of the witnesses that we
6 have scheduled for today. The defense will start tomorrow morning at
7 0930 with Lieutenant Tanya Gaab.

8 MJ: All right. Before we recess, the Court is prepared to rule
9 the government motion for appropriate relief, R.C.M. 706 long form.

10 On 8 August 2013, the government filed a motion for the
11 Court to order the defense to provide the government with the full
12 contents of the R.C.M. 706 report regarding the inquiry into the
13 mental capacity or mental responsibility of PFC Manning, R.C.M. 706
14 report. In accordance with M.R.E. 302(c), Appellate Exhibit 645. On
15 10 August 2013, the defense filed a response in opposition, Appellate
16 Exhibit 652.

17 Findings of Fact:

18 One, an inquiry into the mental responsibility -- mental
19 capacity or mental responsibility of PFC Manning under R.C.M. 8 --
20 706, was conducted and will call that, "R.C.M. 706 Board." On 22
21 April 2011, the R.C.M. 706 Board issues -- issued its report per
22 R.C.M. 706(c)(3)(a) and (b) "Only a statement of the R.C.M. 706
23 Board's conclusions, as to specified questions, was released to the

1 trial counsel. Defense counsel received the full contents of the
2 R.C.M. 706 Board.

3 Two, the defense intends to elicit expert testimony as to
4 the mental condition of PFC Manning through Dr. Moulton during
5 sentencing proceedings.

6 The Law:

7 One, PFC Manning has a privilege to prevent any statements
8 made by him at a mental examination ordered under R.C.M. 706 and any
9 derivative evidence obtained through the use of such a statement from
10 being received in to evidence against him on the issue of guilt or
11 innocence, or during sentencing proceedings, M.R.E. 302(a).

12 Two, there are two exceptions to the M.R.E. 302(a)
13 privilege:

14 One, there is no privilege when the accused first
15 introduces into evidence such statements or derivative evidence and;

16 Two, if the Court allows the defense to present expert
17 testimony as to the mental condition of the accused, the expert
18 witness for the govern -- an expert witness for the government may
19 testify as to reasons for his/her conclusions, but such testimony may
20 not extend to statements of PFC Manning, excepted as provided under
21 Exception 1, M.R.E. 302(b) 1 and 2.

22 Three, M.R.E. 302(c) requires the Court to order release to
23 the government of the full contents of the R.C.M. 706 report, minus

1 PFC Manning's statement, if the defense offers expert testimony
2 concerning the mental condition of PFC Manning. M.R.E. 302(c) and
3 relevant part.

4 Four, the Court should exercise reasonable control over the
5 mode and order of examining witnesses and presenting evidence, as to
6 make these procedures effective for determining the truth and avoid
7 wasting time.

8 M.R.E. 611(a) 1 and 2, *United States v. Bledsoe*,
9 26 MJ 97, Court of Military Appeals, 1988.

10 Conclusions of law:

11 One, M.R.E. 302(c) does not distinguish between merits and
12 sentencing. The rule requires the Court to order the defense to
13 release to government the full contents of the R.C.M. 706 Report,
14 minus PFC Manning's statements, if the defense offers expert
15 testimony concerning the mental condition of PFC Manning.

16 Two, the defense has advised the Court of its intent to
17 introduce expert testimony concerning the mental condition of PFC
18 Manning through Dr. Moulton on Wednesday, 14 August 2013.

19 Ruling:

20 The defense will release to the government the full
21 contents of the R.C.M. 706 Report, minus PFC Manning's statements, to
22 the government no later than 2100, 9:00, 9 p.m. today, 12 August

1 2013, to allow sentencing proceedings to proceed without unnecessary
2 delay.

3 So ordered this 12th day of August 2013.

4 Mr. Coombs, is the defense going have any issues with the
5 time line provided by the Court?

6 CDC[MR. COOMBS]: Potentially, Your Honor, yes. Two things, to
7 redact the statements, plus we would ask that the Court look at the
8 706 Report in camera in order to, I guess, approve of our redactions.
9 Because the defense would believe there are several portions that, or
10 statements are derivative from PFC Manning's statements.

11 MJ: All right. So if we do that, I'm noticing here it's 1600.
12 Does the defense not believe that they can get that done by 2100
13 tonight or do you want to give that to me in the morning to take a
14 look at and we'll release it at that point?

15 CDC[MR. COOMBS]: Yes, Your Honor, the latter, in the morning.

16 MJ: All right. Government, do you have any objection to that
17 alteration of the time line?

18 TC[MAJ FEIN]: No issue with the alteration, ma'am, just that
19 the rule doesn't necessarily distinguish about derivative evidence.
20 It's if the report doesn't use the actual statement, the statements
21 get removed. But if it's in camera view -- we, sure ----

22 MJ: Well are you asking -- are you going to be removing
23 anything but statements?

1 CDC[MR. COOMBS]: Statements or the -- there are sections in
2 which they are essentially rephrasing something that has been said to
3 them. So they've got a section that is statements of PFC Manning and
4 then other sections that we believe, when the Court looks at it,
5 would be derivative statements of that.

6 MJ: All right. So we're starting at 0930 tomorrow. Then how
7 about by 0830 tomorrow, when you have these redactions for me,
8 explain to me what you believe are statements and what you believe
9 are derivative evidence coming from the statements ----

10 CDC[MR. COOMBS]: Yes, Your Honor.

11 MJ: ---- so I know what I'm looking at with the redactions and
12 I'll take a look at that. The witness isn't coming until tomorrow
13 night; is that correct?

14 ATC[CPT von ELTEN]: That was original understanding, yes,
15 ma'am.

16 MJ: Okay. So we'll go ahead -- I will go ahead and amend this
17 order, then, to include to change the time line to what was just
18 discussed and to clarify that the defense will be giving the Court
19 the original and then the redacted with two distinctions between
20 statements and what you believe are paraphrased statements,
21 basically.

22 CDC[MR. COOMBS]: Yes, Your Honor.

23 MJ: And that will be by 0830 tomorrow morning?

1 CDC[MR. COOMBS]: Yes, Your Honor.
2 MJ: Okay. Anything else we need to address before we recess
3 the court?
4 CDC[MR. COOMBS]: No, Your Honor.
5 TC[MAJ FEIN]: No, ma'am.
6 MJ: All right. Court is in recess.
7 [The court-martial recessed at 1558, 12 August 2013.]

8 [END OF PAGE]

1 [The court-martial was called to order at 0934, 13 August 2013.]

2 MJ: Court is called to order. Major Fein, please account for
3 the parties.

4 TC[MAJ FEIN]: Yes, ma'am. All parties when the Court last
5 recessed are again present with the following exception: Captain
6 Morrow is absent, Captain Overgaard is present.

7 Also, as of 0923 this morning, there are 16 members of the
8 media at the Media Operation Center, one stenographer, no media in
9 the courtroom, 19 spectators in the courtroom, and no spectators in
10 the overflow trailer, although it will remain available all day.

11 MJ: All right. At this point have there been any additional
12 exhibits filed?

13 TC[MAJ FEIN]: No, ma'am.

14 MJ: I met briefly with counsel for an R.C.M. 802 conference
15 this morning and just to discuss scheduling and other logistics in
16 the case. Initially we were going to go forward with a telephonic
17 witness. There have been some technical issues with respect to that
18 witness. So what the Court is going to do is, my ruling on the
19 Defense Motion for Appropriate Relief under R.C.M. 1001(b)(4) for
20 Rear Admiral Donegan and Major General McKenzie objections is ready,
21 so I will go ahead and announce that. And then following that,
22 pursuant to our litigation yesterday, Mr. Coombs had sent the Court
23 via email last night some -- the R.C.M. 706 reported issue with

1 proposed redactions. I have couple of questions about those
2 redactions. So the way we will handle that is, I hold an *ex parte*
3 session with defense counsel. What that means is, it's just myself
4 and the defense counsel in the session. The public leaves and the
5 government is not part of that session, because it's talking about
6 records that the government might not get to see. So it's going to
7 be a very brief session. We will just take a brief recess and go
8 into the *ex parte* session with defense counsel, then we are going to
9 reconvene and go forward with the witnesses. Does either side desire
10 to comment on that proposal?

11 CDC[MR. COOMBS]: No, Your Honor.

12 TC[MAJ FEIN]: No, ma'am.

13 MJ: All right. The ruling, on 9 August 2013, in accordance
14 with the procedures established in the Court's ruling defense motion
15 for appropriate relief under R.C.M. 1001(b)(4), Appellate Exhibit
16 639; the defense filed five objections to the testimony of Rear
17 Admiral Donegan and Major General McKenzie. The defense objections
18 were from testimony given in closed session and the substance of the
19 objections is classified. The government compiled a joint classified
20 filing, including the defense objections and the government responses
21 to the objections. That's Appellate Exhibit 654 Alpha. The
22 unclassified redacted joint classified filing is at Appellate Exhibit
23 654 Bravo. The Court's ruling on each objection is as follows:

1 Objection one: Rear Admiral Donegan testified about actual
2 WikiLeaks releases and actual harm to national security caused in two
3 countries as a result of the releases. This is evidence that is
4 directly related to and resulting from PFC Manning's offenses. It is
5 admissible aggravation evidence under R.C.M. 1001(b)(4).

6 Objection two: The testimony involved steps by the United
7 States Government and agencies therein to mitigate potential damage
8 caused by public dissemination of information given to WikiLeaks by
9 PFC Manning. It is directly related to, resulting from PFC Manning's
10 offenses. The Court ruled such evidence is admissible aggravation
11 evidence on 5 August 2013, Appellate Exhibit 639.

12 Objection three: The testimony that particular WikiLeaks
13 disclosure of information given by PFC Manning occurred was one of
14 several direct causes of the harm identified in this objection. The
15 testimony is evidence that PFC Manning's offenses were a proximate
16 cause of the harm. This is evidence that's directly related to or
17 resulting from PFC Manning's offenses. The evidence is admissible
18 under R.C.M. 1001(b)(4).

19 Objection four: The factual testimony in the government's
20 answer to the defense objection is admissible aggravation under --
21 evidence under R.C.M. 1001(b)(4). The particular quotation in the
22 defense objection is speculative and is not admissible under M.R.E.
23 403 and the Court will not consider it.

1 Objection five: The opinion at issue was elicited during
2 the Court's questioning of Major General McKenzie regarding other
3 issues. The witness was not qualified as an expert. The Court will
4 not consider the opinion under M.R.E. 403.

5 M.R.E. 403 analysis. The probative value of those portions
6 of the testimony in evidence ruled admissible as aggravation evidence
7 under R.C.M. 1001(b) (4) is not substantially outweighed by the danger
8 of unfair prejudice under M.R.E. 403. The Court has applied M.R.E.
9 403 to each of the objections and limited the scope of the testimony
10 to matters directly related to or resulting from PFC Manning's
11 offenses and not otherwise speculative or unduly prejudicial.

12 So ordered this 13th day of August 2013.

13 All right. Is there anything else we need to address at
14 this time before we take about a 20-minute recess; we'll recess until
15 10:00 o'clock. I'll hold that *ex parte* hearing and we'll come back
16 on the record at 10:00 o'clock. Is there anything else we need to
17 address?

18 CDC[MR. COOMBS]: No, Your Honor.

19 TC[MAJ FEIN]: No, ma'am.

20 MJ: All right. Then Court is in recess until 10:00 o'clock.
21 Defense Counsel, please remain.

22 **[The court-martial recessed at 0939, 13 August 2013.]**

23 **[END OF PAGE]**

Pages 12739 through 12741 of this transcript are unclassified. This session (13 August 2013, Session 1) is sealed for Reason 4, Military Judge's Seal Order dated 17 January 2014 and stored in the original Record of Trial.

1 [The court-martial was called to order at 1001, 13 August 2013.]

2 MJ: Court is called to order. Let the record reflect all
3 parties are present when the Court last recessed are again present in
4 Court. Mr. Coombs, are you ready to proceed?

5 CDC[MR. COOMBS]: Yes, Your Honor. The defense has marked as
6 a, I believe it's 657 Bravo, the redacted copy of the R.C.M. 706
7 report and we have provided a copy to the government.

8 MJ: Thank you.

9 CDC[MR. COOMBS]: Your Honor, the defense calls Captain Tanya
10 Gaab to the stand, telephonic.

11 Captain Gaab?

12 WIT: Yes, this is her.

13 CDC[MR. COOMBS]: Captain Gaab, this is Attorney David Coombs.
14 If you would, please, stand and raise your right hand the trial
15 counsel is going to swear you in. Okay?

16 WIT: Okay.

17 CAPTAIN TANYA GAAB, U.S. Army, was called as a witness for the
18 defense, was sworn, and testified telephonically as follows:

19 DIRECT EXAMINATION

20 Questions by the assistant trial counsel [CPT Von ELTEN]:

21 Q. Are you in a room by yourself?

22 A. Yeah.

23 Q. Are you able to testify freely?

1 A. Yeah.

2 Q. Do you have any paper or notes in front of you?

3 A. I have paper.

4 Q. Could you please place that underneath your seat?

5 A. Yeah. Okay.

6 Q. And if anything should interrupt your testimony please

7 notify the Court.

8 A. Okay.

9 Q. For the record, you're Captain Tanya Gaab, of the 319th MI

10 Battalion.

11 A. That's correct.

12 Q. Thank you.

13 **Questions by the civilian defense counsel [MR. COOMBS]:**

14 Q. Captain Gaab, what is your MOS?

15 A. 35 Delta.

16 Q. And how long have you been that MOS?

17 A. Since June 2008.

18 Q. Were you prior enlisted?

19 A. Yes.

20 Q. And what was your MOS as an enlisted?

21 A. 97 Echo, Interrogative Linguist.

22 Q. And how long were you an enlisted?

23 A. Three years.

1 Q. And what was your highest rank as an enlisted?
2 A. Specialist.
3 Q. How did you obtain your commission?
4 A. West Point.
5 Q. What year did you graduate from West Point?
6 A. 2008.
7 Q. When did you become part of HHC, 2nd Brigade Combat Team?
8 A. In July 2008.
9 Q. And what was your duty position?
10 A. I was the security manager in Abugard.
11 Q. What did you do basically on a daily basis?
12 A. Process clearances.
13 Q. Can you explain for a moment what that might involve?
14 A. So, if somebody applied for a clearance I would process the
15 paperwork and bring it up to Division and if there were any
16 corrections that needed to be made in anybody's application then I
17 would just help them make the corrections so that their chronological
18 time lines were matched up and I would bring that paperwork to
19 Division and then if we had them returned back from Division the
20 corrections I would bring it or give it to the subordinate units.
21 Q. Did you also do read-ons, if someone was say TS-SCI?
22 A. Correct. I would coordinate read-ons.
23 Q. How long did you hold that position?

1 A. Until -- Probably about one year.

2 Q. Where did you go after that?

3 A. To BOLC II and BOLC III.

4 Q. Can explain what that was for?

5 A. So, BOLC II is the initial officer, kind of, Basic Officer

6 Leadership Course where you do tactical training and then BOLC III is

7 the Intelligence Officer Course.

8 Q. Roughly how long were you at BOLC II and BOLC III?

9 A. I believe it was around 6 months total.

10 Q. Then after completing BOLC III what did you do?

11 A. I went back to 2nd Brigade and deployed to Iraq.

12 Q. When did you deploy for Iraq?

13 A. I believe it was around February 2009. Excuse me, 2010.

14 Q. When you deployed in February 2010, what was your job?

15 A. I became the CIDNE Team Lead in the Brigade S-2 shop.

16 Q. Can you explain what you did as the CIDNE Team Leader in

17 general?

18 A. Analyzed all records -- So, we analyzed records that fell

19 under that sector and then reported it to our Division Chief and

20 occasionally briefed products to the Brigade Commander and attended

21 certain intelligence meetings with our subordinate battalions.

22 Q. How many Soldiers did you have working for you?

23 A. Two.

1 Q. Who were they?

2 A. I'm sorry, I don't remember their names.

3 Q. If I said Specialist Cooley, Specialist Fields, would that
4 sound familiar?

5 A. Special Cooley and -- what was the other name?

6 Q. Fields. Or Shim.

7 A. No, that's not correct. It was a female Soldier. I had a
8 female Soldier.

9 Q. Did PFC Manning ever do any work for you?

10 A. Yes, occasionally, if we had work that our Soldiers
11 couldn't complete or any of our Soldiers were not there I would ask
12 Manning to do specific tasks.

13 Q. How often would you, I guess, have interaction with PFC
14 Manning?

15 A. Every day.

16 Q. And based upon your observations, in general, what type of
17 duty performer was PFC Manning?

18 A. As a Soldier he -- I believe he failed his PT test. He --
19 I think he had some incidents of being disrespectful. He was never
20 disrespectful to me personally. As an analyst, I can't really say
21 that he was good or bad. He didn't work for me directly. When I did
22 give him a task he wasn't the best Soldier in getting the task done
23 and doing it to the standard.

1 Q. Do you recall ever saying that you thought he was very good
2 at producing analytical products?

3 A. I think he's good as an analyst. I don't think he's good
4 or I don't think he was good producing the products and getting it
5 done in a timely manner. He was smart in the analysis but I don't
6 think that equates to briefing the products.

7 Q. Do you recall ever saying if you had any problems with
8 Excel or PowerPoint you could always count on him to help you out and
9 he did it?

10 A. That's correct, yes. He was good at computer type things
11 like that and I did ask him on occasion to help.

12 Q. Were you ever informed of an incident involving PFC Manning
13 and Specialist Padgett?

14 A. I heard when I got there, not from any official source,
15 that he had an angry outburst where he flipped a desk and a computer
16 broke.

17 Q. Do you know what was done in response to PFC Manning's
18 actions when he was counseled by Specialist Padgett?

19 MJ: Hold on just a moment. This is Colonel Lind, the Judge.
20 Yes.

21 ATC[CPT von ELTEN]: Captain Gaab testified that she arrived in
22 February of 2010, after it she doesn't have any personal knowledge.

1 CDC[MR. COOMBS]: This is what I'll ask her. The question
2 goes to does she know what was done with PFC Manning after his
3 actions when he was counseled?

4 MJ: Overruled. Let's see if she knows.

5 Q. So, Captain Gaab, the question to you is, do you know what
6 was done in response to PFC Manning's actions when he was counseled
7 by Specialist Padgett? So, if you know, you can say, yes, I know
8 something was done or I know nothing was done or I have no idea?

9 A. I don't know what was done. I have no idea.

10 Q. All right. Within the S-2 section, who was in charge of
11 administrative details and supervision of Soldiers?

12 A. Sergeant Adkins.

13 Q. Was he a master sergeant at the time?

14 A. Yes, he was.

15 Q. And why was Master Sergeant Adkins in charge of supervision
16 of Soldiers?

17 A. His position was Noncommissioned Officer in Charge of the
18 S-2 Shop, so that fell within the purview of those duties.

19 Q. Were there other NCOs in the S-2 Section?

20 A. Yes, there were.

21 Q. Who were they?

22 A. Sergeant Balonek and Sergeant Madaras also worked in the S-
23 2 Section I believe for a time. And there was another E5 that worked

1 out in the TOC that worked -- that was in the S-2 Shop but worked in
2 the TOC. So, we weren't directly -- I don't remember his name.

3 Q. Did you see a difference in responsibilities over enlisted
4 Soldiers between Master Sergeant Adkins and Staff Sergeant Balonek?

5 A. Yes.

6 Q. And what did you see?

7 A. Staff Sergeant Balonek was also a team lead, so he was the
8 direct team lead. He was more technical control over the Soldiers.
9 You know, he would deal with the products that they made and any
10 other kind of duties that fell within each area. The Soldier part of
11 it fell under Sergeant Adkins.

12 Q. What would Sergeant Adkins do, as far as the Soldiering
13 part; what do you mean by that?

14 A. He would administer leave, counsel the Soldiers. At least
15 he was in charge of their physical training, there was a point where
16 the Soldiers were doing poorly so he started a physical training
17 program and if there was any other problems with them it would be him
18 that was the lead between the S-2 shop and the HHC, First Sergeant.

19 Q. Now I want to ask you a few questions about an incident
20 between PFC Manning and Specialist Showman. Okay?

21 A. Okay.

22 Q. Now in the early May 2010 timeframe, did you find out about
23 an incident involving PFC Manning and Specialist Showman?

1 A. Yes.

2 Q. And how did you find out about that?

3 A. So, I left my shift at around 10pm or 10:30pm at night and
4 then I went to my CHU and woke up in the morning and went to shower
5 where I met Chief Ehresman who told me about an incident where PFC
6 Manning had punched Specialist Showman. And so when I got back to
7 the SCIF -- I went back to the SCIF immediately because the incident
8 had happened.

9 Q. After going back to the SCIF, did there come a time when
10 you saw PFC Manning?

11 A. I didn't see him immediately in the SCIF. I saw Specialist
12 Showman and some of the other Soldiers. I gave -- After speaking to
13 Specialist Showman and asking her what happened and what actions were
14 taken I told her to contact the MPs and then I went looking for
15 Specialist Manning -- PFC Manning who was supposedly walking around
16 with Sergeant Adkins and that's where I found him walking around
17 outside.

18 Q. And from what you knew at that point had PFC Manning been
19 removed from the T-SCIF, as far as no longer being allowed to go
20 back?

21 A. No.

1 Q. And did you ever speak to Master Sergeant Adkins about why
2 PFC Manning was not removed from his position at the T-SCIF at that
3 point?

4 A. Yes. As soon as I found Manning and Sergeant Adkins I
5 asked him what was going on. He told me that he had taken Specialist
6 Manning to the TMC or medical office to see if he was okay because
7 Specialist Showman had put him on the ground after he assaulted her
8 and I asked him what else he did and at that point he had gone to
9 sleep in his CHU and then woken up in the morning and was walking
10 around with Sergeant Adkins.

11 Q. Did Master Sergeant Adkins indicate if anything was going
12 to be done with the company commander at that point?

13 A. No. At that point I was under the impression -- he told me
14 that was what had been done. At that point I took Specialist
15 Manning's rifle away and I told him to sit in the brief without his
16 rifle and into the SCIF and I asked him -- Specialist Showman to
17 change the Cypher locks and told everybody that he wasn't allowed
18 back in the SCIF. I came back out and told Sergeant Adkins and
19 Specialist Manning to stay there and I don't remember if they
20 followed me to HHC if they stayed there but I went to HHC immediately
21 to contact Captain Freeburg who was the company commander at the time
22 to let him know what had happened.

1 Q. Why did you feel that you needed to take those steps that
2 you just told us about?

3 A. Because when I came in a Soldier had been assaulted and
4 Specialist Showman had a welt on her face and not one person had
5 contacted MPs or JAG or the Company or anybody else to let them know
6 that a Soldier had been assaulted. Up until that point, Specialist
7 Manning had been acting strangely and so at that point this was just
8 the straw that broke the camel's back and at that point I felt that
9 Specialist Manning was a threat to other people and himself and that
10 he needed to be removed from the SCIF immediately and his weapon
11 taken away so he couldn't hurt himself or somebody else.

12 Q. Did you actually go speak with the company commander?

13 A. Yes, I did.

14 Q. And why did you do that?

15 A. Because I was under the impression that he hadn't been
16 notified. When I was talking to the company commander I think the
17 first sergeant walked up and said something about, we've got this. I
18 told Captain Freeburg, I said, I don't know if it has been relayed to
19 you this is an accusation but this isn't just a Soldier being
20 stressed out. This is a Soldier who is a homicide or suicide risk.
21 I honestly believe he's going to hurt somebody. I think we need to
22 remove him and have him monitored at all times.

23 Q. What was done after you went and spoke with the Commander?

1 A. After I went and spoke with the commander I went back to
2 the SCIF to ensure that the Soldiers knew not to have any contact
3 with Manning and that the Cypher lock was changed and that Specialist
4 Showman was going to draft a DEROG immediately so that he would be
5 restricted from classified information and so that -- transferred to
6 Captain Freeburg to be signed.

7 Q. Prior to you directing Specialist Showman to draft up the
8 DEROG, had any action been taken on doing a DEROG?

9 A. No.

10 Q. Why did you feel the need to do the DEROG?

11 A. Although I wasn't in Manning's chain of command and I
12 didn't really have any authority in the SCIF I felt like at that
13 point things had gone way too far and although I was told he wasn't -
14 - there's a point where you have to take action and I wasn't the
15 leader of those Soldiers but I was a leader so I felt like it was the
16 only way to protect people. I thought he was a physical risk to the
17 Soldiers and I thought it would be a good way to keep him from doing
18 anything to harm anybody else.

19 Q. You indicated that you were told it was not your lane. Who
20 told you it wasn't your lane?

21 A. Previously I had inquired about Soldiers and some of the
22 other things and I don't remember it was said outright or implied but
23 that it was an NCO lane and NCOs had it and it's not -- it wasn't

1 really our lane. So, I wasn't given any kind of chain of command or
2 authority or anything like that.

3 CDC[MR. COOMBS]: Captain Gaab, the Government is going to
4 have a few questions for you, okay?

5 WIT: Okay.

6 CDC[MR. COOMBS]: Thank you.

7 MJ: Government?

8 ATC[CPT von ELTEN]: Nothing from the government, ma'am.

9 MJ: Temporary or permanent excusal?

10 ATC[CPT von ELTEN]: Permanent, Your Honor.

11 CDC[MR. COOMBS]: Permanent, Your Honor.

12 **[The witness was permanently excused and the telephone call was**
13 **disconnected.]**

14 MJ: Mr. Coombs, are you ready to proceed with the next witness.

15 CDC[MR. COOMBS]: Yes, Your Honor. The defense calls CW2
16 Joshua Ehresman.

17 **[END OF PAGE]**

18

1 CHIEF WARRANT OFFICER 2 JOSHUA EHRESMAN, was recalled as a witness
2 for the defense, was reminded he was still under oath, and testified
3 as follows:

4 DIRECT EXAMINATION

5 Questions by the civilian defense counsel [MR. COOMBS]:

6 Q. And if you could remind us, how long have you been in the
7 military?

8 A. 19 and a half years, sir.

9 Q. What was your enlisted rank prior to becoming a warrant.

10 A. Sergeant first class.

11 Q. Have you had or held positions that require responsibility
12 or supervision -- let me rephrase that. Have you had supervisory
13 responsibility positions over Soldiers in the past?

14 A. Yes.

15 Q. How many, roughly, would you say you have had, positions?

16 A. I have held all positions up to first sergeant.

17 Q. And I imagine you counseled Soldiers before?

18 A. Yes, sir.

19 Q. And why would you, in general, do that?

20 A. Positive, negative, direction, various reasons, sir.

21 Q. And when you arrived at the 2nd BCT, did you receive an
22 initial written counseling explaining your duties and
23 responsibilities to you?

1 A. No, sir.

2 Q. Do you know why not?

3 A. I do not know.

4 Q. Was that something that you would expect to receive?

5 A. Yes, sir.

6 Q. Within the S-2 Section, did you see yourself as part of the
7 chain of command over Soldiers?

8 A. No, sir.

9 Q. And can you explain to the Judge why not?

10 A. Because I did inquire about my leadership responsibility to
11 both Master Sergeant Adkins and Major Clausen and both of them told
12 me that I was in charge of intelligence products, not in charge of
13 the Soldiers.

14 Q. Did you challenge that assumption that you would have no
15 responsibility for leadership or supervision of Soldiers?

16 A. Yes, sir.

17 Q. And why did you challenge that?

18 A. Because I felt, as a officer, that I was still in charge of
19 it and in my past I took charge of Soldiers. So I wanted to be in
20 charge of the shop. If I was responsible for it, I wanted to have
21 responsibility.

22 Q. And who did you speak to when you challenged that
23 assumption that you would have no responsibility?

1 A. The same two that I just said, sir, Master Sergeant Adkins
2 and Major Clausen.

3 Q. When you went to them, how did they respond to you?

4 A. They told me that I just take care of the intelligence
5 products and they would handle the rest.

6 Q. How often did you bring that subject up with Major Clausen
7 and Master Sergeant Adkins?

8 A. At least twice, sir.

9 Q. And on each occasion were you told essentially the same
10 thing?

11 A. Yes, sir.

12 Q. Did the guidance that you received from Major Clausen and
13 Major -- excuse me, and Master Sergeant Adkins comport with what your
14 experience was as a non-commissioned officer?

15 A. No, sir.

16 Q. And why not?

17 A. Normally the warrant is in charge of that section, but what
18 their leadership style, the way they did it, they didn't require me
19 to do that.

20 Q. During your discussions with Major Clausen were you ever
21 told that you had or that you were no longer a NCO, you needed simply
22 to focus on your duties to collect intelligence?

23 A. Yes, sir.

1 Q. And when was this?

2 A. When I first got there.

3 Q. Based upon your observation, how would you describe the
4 leadership within the S-2 Section, the leadership provided within the
5 S-2 Section?

6 A. I thought it was good, sir.

7 Q. And why would you say that?

8 A. They had general concern for the Soldiers and the other
9 leaders within the ranks, sir.

10 Q. From your perspective, did the S-2 Section foster a kind of
11 keep-everything-in-the-house attitude?

12 A. Yes, sir.

13 Q. And what do you mean by that?

14 A. We tried to deal with at the lowest level which was taught
15 to us by the military.

16 Q. Did anyone ever complain about not taking something outside
17 of the S-2 Section?

18 A. A few times, yes, sir.

19 Q. And during the deployment, I want to talk to you about an
20 incident that you witnessed, okay?

21 A. Yes, sir.

22 Q. Between PFC Manning and Specialist Padgett. Were you
23 present when Specialist Padgett was counseling PFC Manning?

1 A. Yes, sir.

2 Q. And when was this?

3 A. You are asking for dates, sir?

4 Q. Roughly. Was it December 2009?

5 A. It was 2009.

6 Q. December 2009?

7 A. I believe so, sir.

8 Q. And from your memory what happened?

9 A. I know Padgett was giving him a corrective training
10 counseling, I believe it was for being late or something -- some sort
11 like that. And PFC Manning I think it was Specialist Manning at the
12 time, got a little upset what was going on and he dumped a table and
13 then ----

14 Q. And we'll stop there. You say dumped a table. What do you
15 mean he did?

16 A. Well, he got angry and he slammed his fist on the table.
17 And he grabbed onto the table and he lifted it and put his arm under
18 it and lifted it over and dumped the computers onto the floor.

19 Q. What size of the table are we talking about?

20 A. The same size as the prosecution's desk.

21 Q. So, roughly, maybe 8 by 3?

22 A. Yes, sir.

23 Q. Once he did that what happened?

1 A. There was a little commotion and I went and detained him.

2 Q. Before you detained PFC Manning, then Specialist Manning,

3 did you see him do anything?

4 A. I felt that he was going towards the weapons rack and I

5 felt that I needed to detain him.

6 Q. Why did you feel that way?

7 A. Because he was very visually distraught and he had already

8 dumped a table filled with government computers. So you don't know

9 what's going to happen so I acted at what I thought I should act.

10 Q. And when you say you restrained him, what did you do?

11 A. I grabbed him and put him in a full nelson and set him on a

12 bench.

13 Q. And a full nelson, that terminology, is that a wrestling

14 terminology?

15 A. Yes, sir.

16 Q. And when you say full nelson, is that -- can you describe

17 what you did?

18 A. Yes. You put both arms under the armpits and on the back

19 of his head. And then lock your fingers behind their head.

20 Q. All right. And once you did that, what happened?

21 A. Me and him talked. I told him to relax. When he relaxed,

22 I let him sit down. And we talked like adults. And then he said,

23 I'm calm, let me go. I let him go. We sat down and talked. We

1 talked it out. I told Padgett to leave. And he calmed down and we
2 walked out of the SCIF and had a cigarette.

3 Q. And based upon what you saw, was this reported to Master
4 Sergeant Adkins at any time?

5 A. Yes, sir.

6 Q. And how do you know that?

7 A. I told Master Sergeant Adkins, Padgett told Sergeant
8 Adkins, everybody told Sergeant Adkins, and I believe he went to
9 mental health at that time.

10 Q. From your perspective, did you see any, I guess besides
11 mental health, did you see any corrective training or any sort of
12 UCMJ action due to what occurred during the counseling session?

13 A. No, sir.

14 Q. Do you know why not?

15 A. No, sir.

16 Q. From your perspective, was that type of conduct that you
17 witnessed something that was acceptable within the T-SCIF?

18 A. No, sir.

19 Q. And why?

20 A. Because he dumped the computer, or the table full with
21 government computers.

22 Q. Are you familiar with what a DEROG is?

23 A. Yes, sir.

1 Q. And how so?

2 A. After all this I have been put in roles where I have been

3 led to advise or come in contact with DEROGs, sir.

4 Q. So prior to this deployment were you familiar with what a

5 DEROG was?

6 A. No, sir.

7 Q. Now based upon your understanding what a DEROG is, do you

8 have an understanding when you would file a DEROG?

9 A. Yes, sir.

10 Q. And when is that?

11 A. After an incident like that would have taken place.

12 Q. And you say "like that", the incident that you witnessed

13 with PFC Manning and Specialist Padgett?

14 A. Yes, sir.

15 CDC[MR. COOMBS]: Thank you.

16 MJ: Government?

17 ATC[CPT OVERGAARD]: Yes, ma'am.

18 **CROSS-EXAMINATION**

19 **Questions by the assistant trial counsel [CPT Overgaard]:**

20 Q. Chief Ehresman, now you said on direct that you tried to

21 handle things at the lowest level. What did you mean by that?

22 A. In the military you are told to handle at the lowest level

23 so you don't overkill an incident.

1 Q. So you were told by Major Clausen and Master Sergeant
2 Adkins that you were not responsible for any Soldier's misconduct?
3 A. Yes, ma'am.
4 Q. And what was your primary mission at 2/10 during '09/'10
5 deployment?
6 A. Was product supervision, ma'am.
7 Q. So you were told to focus on that work product?
8 A. Yes, ma'am.
9 Q. And Master Sergeant Adkins would handle the Soldier issues
10 so you could focus on your mission?
11 A. Yes, ma'am.
12 Q. Which was?
13 A. Intelligence.
14 Q. Okay. And this was your -- The '09-'10, that was your
15 third deployment?
16 A. Yes, ma'am.
17 Q. And in your opinion, was the S-2 shop run in orderly
18 manner?
19 A. Yes, ma'am.
20 Q. And Master Sergeant Adkins ran his shop with a direct line
21 between the Soldiers and him?
22 A. Yes, ma'am.
23 Q. And there was no issues with that?

1 A. No, ma'am.

2 Q. In fact, all the leadership at 2/10 had an open-door
3 policy, didn't they?

4 A. Yes, ma'am.

5 Q. And it seemed to work for the shop?

6 A. Yes, ma'am.

7 Q. It was actually a very close shop?

8 A. Very close.

9 Q. And how was Captain Lim as the S-2?

10 A. He was awesome.

11 Q. He did a good job?

12 A. Yes, he did a terrific job.

13 Q. Were they all the enlisted trained appropriately before you
14 deployed?

15 A. Yes, ma'am.

16 Q. Was someone always available for junior analysts to ask
17 questions to when you were in theater?

18 A. Yes, ma'am.

19 Q. You said now you know about DEROGs. At the time you
20 didn't?

21 A. Right.

22 Q. And you said this might be something that you would do a
23 DEROG for?

1 A. Yes, ma'am.

2 Q. But you could see why somebody wouldn't do a DEROG for it
3 as well, couldn't you?

4 A. Yes, ma'am.

5 Q. You typically do DEROGs for trust related issues in your
6 opinion?

7 A. Yes, ma'am.

8 Q. So it could go either way?

9 A. It could.

10 Q. And you wouldn't DEROG someone for going to mental health,
11 would you?

12 A. No, ma'am.

13 ATC[CPT OVERGAARD]: Sorry, I'm just looking at my notes. No
14 further questions.

15 MJ: Redirect?

16 CDC[MR. COOMBS]: Briefly, Your Honor.

17 **REDIRECT EXAMINATION**

18 **Questions by the civilian defense counsel [MR. COOMBS]:**

19 Q. If you recall, when did Captain Lim become to S-2?

20 A. I believe it was in January, sir.

21 Q. So after this incident?

22 A. Yes, sir.

23 CDC[MR. COOMBS]: Thank you.

1 MJ: I have a couple of questions for you.

2 **EXAMINATION BY THE COURT-MARTIAL**

3 **Questions by the military judge:**

4 Q. You just testified earlier in your testimony that you
5 wanted to be part of the leadership chain. How did you envision that
6 would work?

7 A. Well, I was a new officer so I wasn't sure of my role as a
8 warrant officer. And I previously held the position of first
9 sergeant, so I went to -- since I was the fusion OIC and was
10 responsible for everything coming out there, I wanted direct
11 leadership and supervision of all of the Soldiers in there, as well
12 as the leadership, so I can have an impact on whether they listen to
13 me or not. Because if you don't have that boss role, sometimes they
14 blow you off, because you are not feeding their NCOER or their OER or
15 whatever.

16 Q. How were you envisioning that would work with Master
17 Sergeant Adkins?

18 A. Well, he would be above and running the complete shop, like
19 overall paperwork and stuff like that, whereas, I would be
20 responsible for the leaders within the shop and the junior level, the
21 lower level.

22 Q. And this was the procedure that Master Sergeant Adkins and
23 Major Clausen said, no, we don't want to do that?

1 A. Yes, ma'am.

2 Q. Okay. When PFC Manning flipped the table. And how many
3 government computers were on the table?

4 A. There were two computers, ma'am.

5 Q. Large computers or laptops?

6 A. Lap -- Well, one had a screen and the other one was a
7 laptop.

8 Q. Do you know if anything happened to those computers as a
9 result of the ----

10 A. I don't remember anything happening to them specifically,
11 ma'am.

12 Q. Did they break?

13 A. I know they fell. I don't remember if they worked or not
14 after that.

15 MJ: Any follow up based on my questions?

16 CDC[MR. COOMBS]: No, Your Honor.

17 ATC [CPT OVERGAARD]: No, ma'am.

18 **[The witness was temporarily excused, duly warned, and withdrew from**
19 **the courtroom.]**

20 CDC[MR. COOMBS]: Your Honor, the defense calls CW2 Kyle
21 Balonek.

22 **[END OF PAGE]**

1 CHIEF WARRANT OFFICER 2 KYLE BALONEK, was recalled as a witness for
2 the defense, was reminded he was still under oath, and testified as
3 follows:

4 DIRECT EXAMINATION

5 Questions by the civilian defense counsel [MR. COOMBS]:

6 Q. Chief, I know you testified to this before, but just
7 refresh our memory, when did you become a warrant officer?

8 A. August 2010.

9 Q. And prior to becoming a warrant officer you were a 35 Fox?

10 A. Yes, sir.

11 Q. And what was your highest enlisted rank?

12 A. I was a staff sergeant promotable.

13 Q. Were you ever part of -- Well you are a part of HHC, 2nd
14 Brigade, correct?

15 A. Yes, sir.

16 Q. And who was the NCOIC of the S-2 Section?

17 A. It would be Master Sergeant Adkins.

18 Q. As the NCOIC did Master Sergeant Adkins ever counsel you in
19 writing on his expectation of you as the leader within the S-2
20 Section?

21 A. Occasionally.

22 Q. Did he do that when you first arrived?

23 A. I don't think so.

1 Q. Is that something that you would expect as a warrant
2 officer coming into a shop?

3 A. As a warrant officer or as an NCO, sir?

4 Q. As an NCO, I'm sorry. You were an NCO at the time?

5 A. Yes, sir.

6 Q. And why is that?

7 A. It lays the expectations of your duty performance and how
8 you should uphold yourself and keys to success for your NCOERs.

9 Q. Who was the S-2 when you deployed to Iraq?

10 A. In 2009, sir?

11 Q. Yes.

12 A. Major Clausen.

13 Q. Did Major Clausen ever counsel you in writing on his
14 expectations of you as a leader within the S-2 Section?

15 A. Not that I can recall, sir.

16 Q. Did you feel any frustration by not being given any
17 guidance on the expectation of you as a leader?

18 A. Maybe a little, sir.

19 Q. Do you recall saying that was one of your biggest
20 frustrations?

21 A. It was a frustration; yes, sir.

22 Q. Do you recall ever saying in response to a question ---

23 MJ: Yes, hold on.

1 ATC [CPT OVERGAARD]: Objection, leading.

2 MJ: Finish your question and then your objection. Go ahead.

3 Q. Do you recall ever saying in response to a question, did
4 you ever receive initial counseling, honestly I cannot ever say I did
5 in this unit. It was kind of one of my bigger frustrations here?

6 MJ: Overruled. There is no other way to ask that question, go
7 ahead.

8 A. I do.

9 Q. Why did you say that?

10 A. It's tough to do what you need to do, if you don't know
11 what's really expected of you. That's a good way to describe it.

12 Q. Now let's discuss Master Sergeant Adkins' supervisory
13 scheme for enlisted Soldiers within your section. Okay?

14 A. Yes, sir.

15 Q. Under his supervisory scheme, were you ever circumvented in
16 regards to Soldier issues?

17 A. I think one specific. There was more but it was just more
18 of time to be there issue.

19 Q. Do you recall ever saying -- Do you recall ever saying that
20 you felt you had been circumvented by Master Sergeant Adkins when it
21 came to enlisted Soldier issues?

22 A. I believe that extends from the one instance where I had
23 assigned a specific time to be there and it then changed behind me.

1 Q. Do you recall ever saying that you felt that he had cut you
2 out of the loop with regards to enlisted Soldier actions?

3 A. Yes.

4 Q. And why did you feel that way?

5 A. I felt like I rarely knew what was going on within the
6 section.

7 Q. Did you ever address that with Master Sergeant Adkins?

8 A. Once, but I was kind of let me know how the chain would
9 work.

10 Q. Do you recall ever saying Master Sergeant Adkins created a
11 situation where I, as the supervisor, was circumvented and the extent
12 to which I was being circumvented was also hidden from me?

13 A. Yes. I didn't know at the time.

14 Q. And why did you feel that the extent to which you were
15 being circumvented was hidden from you?

16 A. Mostly seemed like from the particular issue that we are
17 dealing with now.

18 CDC[MR. COOMBS]: I'm showing you what would be marked as
19 Exhibit QQQ for Identification. If you would, please, just glance at
20 that, look at all three pages, and when you're done just look up at
21 me.

22 **[There was a brief pause while the witness reviewed the exhibit.]**

23 Q. Are you familiar with the contents of this email?

1 A. Only since the investigation happened.

2 Q. Do you believe this is something that you should have been
3 made aware of?

4 A. Maybe, yes; maybe, no. I'm not -- I mean it seemed to have
5 gone up around me, but I'm not entirely sure if it needed to go
6 through me. It probably could have. If it had gone through the
7 chain of custody, but it seemed to go straight to Adkins probably as
8 an example of what I stated before.

9 Q. As one of the NCOs and having duties over PFC Manning, do
10 you believe this action should have been shared with you at the time
11 Master Sergeant Adkins received it?

12 A. Due to the sensitivity of it, maybe; maybe not.

13 Q. Why do you feel that way?

14 A. If it hadn't been brought to me it would have gone to
15 Adkins and followed this particular chain that it looks like it
16 followed. I would have just been another intermediary step.

17 Q. Well, did you feel that you had the ability to take
18 appropriate corrective action over one of your Soldiers under Master
19 Sergeant Adkins's supervisory scheme?

20 A. During the deployment, yes.

21 Q. Why did you feel that way?

22 A. Because I had more -- I had a little bit more control over
23 my team members, at least that worked on the day shift.

1 Q. Do you recall ever saying that Master Sergeant Adkins
2 supervisory scheme both pre and post deployment created a
3 dysfunctional supervisory scheme among the S-2 mid-level leaders and
4 enlisted Soldiers?

5 A. It changed frequently, which made it slightly confusing.

6 Q. Did you actually use that term "dysfunctional"?

7 A. I may have. It's been a while, sir.

8 CDC[MR. COOMBS]: All right. I'm retrieving from the witness
9 Defense Exhibit QQQ for Identification. I'm handing the witness
10 Defense Exhibit SSS for Identification. If you would, Chief, take a
11 look at that. Thumb through each of the pages. When you're done,
12 look up at me.

13 **[There was a brief pause while the witness reviewed the exhibit.]**

14 Q. Do you recognize that?

15 A. Of course, yes, sir.

16 Q. What is it?

17 A. It's my rebuttal for the letter of reprimand.

18 Q. If you would, take a look on Page 3. If you would read to
19 yourself silently, Number 3, Paragraph 3, that's labeled there,
20 Paragraph C right beneath that. When you're done, just look up at
21 me.

22 A. 3 and C, sir?

1 Q. Yeah. So, read Paragraph 3. And then, did you read C as
2 well?

3 A. Yes, sir.

4 Q. Then, if you would, Paragraph 2 beneath that.

5 **[There was a brief pause while the witness reviewed the exhibit.]**

6 Q. Have you finished reading that?

7 A. Yes, sir.

8 CDC[MR. COOMBS]: I'm retrieving Defense Exhibit SSS for
9 Identification from the witness.

10 Q. Does that refresh your memory as to what you said about
11 whether or not it was dysfunctional?

12 A. A little bit; yes, sir.

13 Q. A little bit?

14 A. Yes, sir?

15 Q. Or it does?

16 A. It's bringing it all back. I remember.

17 Q. And based upon that, did you say that you believed he had a
18 dysfunctional leadership scheme?

19 A. Based on the changes it became that way, yes, sir.

20 Q. And so, also based upon that do you recall saying that you
21 felt that that should have been -- the email that we addressed,
22 Defense Exhibit QQQ for Identification, do you recall indicating that
23 should have been shared with you?

1 A. If he followed the proper chain through team lead to NCOIC
2 it should have been.

3 Q. And do you recall indicating that you felt that Master
4 Sergeant Adkins intentionally cut you out of decision making and
5 disciplinary issues with regards to your Soldiers?

6 A. That is how I felt.

7 Q. Why did you feel that way?

8 A. I felt as a junior NCO I should have had more involvement.
9 However, I didn't have the knowledge because it didn't go to me. It
10 went straight over my head.

11 Q. Did you ever speak directly with Major Clausen or Master
12 Sergeant Adkins about the supervisory scheme?

13 A. While we were deployed, yes.

14 Q. And what did you say?

15 A. I wanted his clear guidance on what he wanted me to do and
16 how he wanted me to -- my part of the section.

17 Q. And did that change to where now you were -- obviously you
18 are still being circumvented; is that correct?

19 A. It fixed a few things, but it didn't fix the overarching
20 problem.

21 Q. And did you ever speak with Captain Lim about Master
22 Sergeant Adkins' supervisory scheme?

23 A. I can't recall an incident, but I may have, sir.

1 Q. Do you recall ever speaking with Master Sergeant Adkins
2 specifically about an incident involving PFC Manning and Specialist
3 Padgett in December of 2009?

4 A. I don't think I discussed that with him, no.

5 Q. Were you aware of any incident between PFC Manning and
6 Specialist Padgett in December of 2009?

7 A. The counseling session?

8 Q. Were you aware of any incident between PFC Manning and
9 Specialist Padgett in December 2009?

10 A. Yes.

11 Q. And what are you aware of?

12 A. I heard that he had flipped over a table during a
13 counseling session.

14 Q. Now, as one of the NCOs within the S-2 Section, did you
15 speak to anyone about that incident?

16 A. Outside of the S-2?

17 Q. Within the S-2 section?

18 A. It was talked about amongst the S-2.

19 Q. You, as one of the leaders, did you speak to anybody about
20 that incident and what should happen?

21 A. Yes, it was brought to Master Sergeant Adkins.

22 Q. And did you do that?

23 A. I believe Padgett did.

1 Q. Do you recall ever speaking with Master Sergeant Adkins at
2 all about that incident?

3 A. Not really. It happened while I was out of the office. So
4 the only thing I heard, I never heard -- I wasn't there, it's all
5 what I heard from the people who were there.

6 Q. Do you recall, and you tell me if you don't, indicating
7 that you spoke to him and he told you not to worry about it, that he
8 would handle it?

9 A. That was a common answer I usually got for anything I
10 brought to him.

11 Q. I want to make sure, that may have been the common answer.
12 Now that I say that, do you recall bringing that issue up to Master
13 Sergeant Adkins?

14 A. I probably did.

15 Q. Based upon your understanding of the incident that occurred
16 between PFC Manning and Specialist Padgett, do you believe that that
17 incident was properly handled as one of the NCOs within the S-2
18 Section?

19 A. I do. At that point PFC Manning had been going to
20 counseling at Behavior Health. In my eyes it was being addressed, he
21 was receiving some help.

1 Q. Did you or any other leaders within the S-2 Section think
2 about perhaps a DEROG for the incident or perhaps temporarily
3 removing PFC Manning from the SCIF?

4 A. At that point we did not.

5 Q. And can you tell me why not?

6 A. DEROGs are -- For that particular incident it really didn't
7 seem DEROG worthy. I mean it was -----

8 Q. And why not?

9 A. He got upset.

10 Q. Right. What was your understanding of what happened to say
11 that wasn't DEROG worthy?

12 A. He got upset and turned the table. To me it equated to
13 like a temper tantrum.

14 Q. Were you aware whether or not Chief Ehresman had to
15 restrain PFC Manning?

16 A. He mentioned that he did kind of calm him down.

17 Q. Were you aware of whether or not Chief Ehresman actually
18 had to put him in a full nelson to restrain him?

19 A. That's what he said he did. I wasn't there for the
20 incident though.

21 Q. Were you aware that, whether or not Chief Ehresman did that
22 because he believed PFC Manning was going for a weapon?

23 A. That I did not know.

1 Q. Would that change your opinion whether or not a DEROG would
2 be appropriate, if PFC Manning was, in fact, going for a weapon?

3 A. If that was, in fact, the case, then possibly, sir.

4 Q. Why possibly?

5 A. It's a little dangerous to go for a weapon, if that's what,
6 indeed, happened.

7 Q. If that did happen, then would you see a DEROG as being an
8 appropriate action?

9 A. It's possible, sir.

10 Q. And can you explain to me your thought process, why it
11 would be possible and not an appropriate action?

12 A. Well, a DEROG isn't a function of the S-2 necessarily. A
13 DEROG is a function of the Commander. The Commander deems a DEROG
14 necessary. He directs the S-2 to draft the form.

15 Q. Well, then under that logic would you see a reason to
16 actually inform the Commander of the incident to allow the Commander
17 to decide whether a DEROG is appropriate?

18 A. Yes, sir.

19 Q. And why?

20 A. It seems like, if you're going to try to go for that
21 action, it's just not something you want in your section.

1 Q. And if, in fact, those facts were true, could you see why
2 maybe temporarily removing PFC Manning from the T-SCIF might be a
3 good idea?

4 A. I mean it's a possibility.

5 Q. Would it be a good possibility, a bad possibility or do you
6 have an opinion?

7 A. I couldn't say one way or the other, sir.

8 CDC[MR. COOMBS]: All right. No further questions.

9 MJ: Trial Counsel?

10 ATC[CPT OVERGAARD]: Yes, ma'am.

11 **CROSS-EXAMINATION**

12 **Questions by the assistant trial counsel [CPT OVERGAARD]:**

13 Q. You said you were out of the office when the table flipping
14 occurred?

15 A. Yes, ma'am.

16 Q. So you don't know whether or not what actually happened
17 during that incident?

18 A. I have no firsthand knowledge of it.

19 Q. And you were actually out of the office quite a bit,
20 weren't you?

21 A. Yes, ma'am.

22 Q. Because you were becoming a warrant officer at the time.

1 A. I usually filled in for most of the meetings when Sergeant
2 Adkins wasn't around.

3 Q. And you also went to, in garrison at least, you went to the
4 Master Analyst Course?

5 A. This is true, ma'am.

6 Q. And the chain of command supported that?

7 A. Yes, ma'am.

8 Q. And you succeeded at becoming a warrant officer and that
9 Master Analyst School?

10 A. Yes, ma'am.

11 Q. When you were deployed, what was primary mission at 2/10
12 during the '08 -- or sorry, the '09-'10 deployment?

13 A. Primarily I was the shift record team lead.

14 Q. And you were left alone basically to be the master analyst?

15 A. I had some team members.

16 Q. Well you -- But Master Sergeant Adkins kept the Soldier
17 issues more to himself?

18 A. Yes.

19 Q. He handled those mostly?

20 A. I took more of the analytic and work products, the quality
21 control and dissemination. He took more of the administrative.

22 Q. And Master Sergeant Adkins doesn't have to report things
23 down through you because you were a staff sergeant at the time and he

1 was a master sergeant at the time? He doesn't necessarily have to go
2 back down through you, when he's reporting things?

3 A. I guess you could say, yes.

4 Q. But you would expect him to tell you something, if you need
5 to know it?

6 A. Yes, ma'am.

7 Q. And the email that Mr. Coombs showed you, you said that you
8 considered that to be a personal issue?

9 A. Yes, ma'am.

10 Q. So that might require behavioral health, not necessarily
11 bringing you into the loop?

12 A. Yes, ma'am.

13 Q. And do you remember the date on that email?

14 A. I do not, ma'am.

15 ATC[CPT OVERGAARD]: I'm retrieving Exhibit -- Defense Exhibit
16 Quebec-Quebec-Quebec and handing it to the witness.

17 Q. Could you just read the date on the top of the email --
18 actually it would be down here to yourself.

19 A. Saturday ----

20 Q. Actually to yourself.

21 A. Okay.

22 Q. Can you tell us what date on the email is?

23 A. 24 April 2010.

1 ATC[CPT OVERGAARD]: I'm retrieve Defense Exhibit Quebec-Quebec-
2 Quebec for Identification.

3 Q. That was 24 April 2010?

4 A. Yes, ma'am.

5 Q. This was actually your fourth deployment, the '09-'10
6 deployment?

7 A. Yes, ma'am.

8 Q. And you also deployed in '06-'07 with 2/10?

9 A. That's correct.

10 Q. With the S-2 Shop?

11 A. Yes, ma'am.

12 Q. Master Sergeant Adkins was NCOIC at that time as well?

13 A. Yes, ma'am.

14 Q. Was the shop running any differently in '09-'10 than it was
15 in '06-'07?

16 A. Other than a different area of responsibility and we had
17 more people in '06-'07. It was relatively -- it was very similar.

18 Q. So you had less personnel in '09?

19 A. Yes, ma'am.

20 Q. Were the OPSEC and physical security practices at FOB
21 Hammer in the 2009-2010 deployment any different?

22 A. No, ma'am.

23 Q. You said you were familiar with DEROGs at the time?

1 A. Yes, ma'am.

2 Q. And they were actually really rare, it was rare to do a

3 DEROG wasn't it?

4 A. Yes, ma'am.

5 Q. And you only remember doing maybe one or two?

6 A. There were very few.

7 Q. What was the time constraint on that, the one or two?

8 A. One was while we were deployed in '06-'07 and one was

9 shortly after we got back, if I'm remembering right.

10 Q. Those are for pretty serious ----

11 A. Pretty egregious things.

12 Q. Why do you reserve DEROGs for egregious misconduct?

13 A. DEROGs once -- it's primarily once the clearance is,

14 indeed, pulled, if the Commander does want to pull the clearance, and

15 maybe down the line has second thoughts and says, maybe this was

16 wrong, we want to get the clearance back, it is a very difficult

17 procedure to bring the clearance back to that Soldier.

18 Q. So there are other avenues you could pursue?

19 A. Yes. Please exercise caution when dealing with clearance.

20 Q. So you might counsel the Soldier or try some corrective

21 training. There's lots of other avenues you could pursue before

22 that?

23 A. Yes, ma'am.

1 Q. And did you think in the '09-'10 deployment, did you think
2 the S-2 shop was run well?

3 A. It -- The job was done. What we needed done, got done.

4 Q. You completed your mission besides you had some logistical
5 and operational, I guess, challenges?

6 A. Yes, ma'am.

7 Q. But you completed your mission?

8 A. Yes, ma'am.

9 Q. You had some personnel shortages?

10 A. Yes, ma'am.

11 Q. You said it was confusing. That was partially because
12 there was change in personnel quite often?

13 A. Yes, ma'am.

14 Q. But there was always someone that the Soldiers could go to,
15 if they had any questions, the junior analysts?

16 A. Yes, ma'am.

17 Q. How is Captain Lim at the S-2?

18 A. Captain Lim is a great intelligence officer.

19 Q. Would you say he's one of the better intelligence officers
20 you ever worked with?

21 A. I would, ma'am.

22 Q. And he got the job done?

23 A. Yes, ma'am.

1 Q. He actually did more with less?

2 A. Yes, ma'am.

3 Q. Was it common to go -- for people to go to mental health
4 during the '09-'10 deployment?

5 A. I don't know the degree, but it had become a more common
6 Army wide.

7 Q. It's more acceptable now or at least then than it used to
8 be?

9 A. Yes, ma'am.

10 Q. What happened specifically to a 35 Fox, when they lose
11 their clearance from a DEROG and do not get it back?

12 A. I couldn't tell you. I would assume they are reassigned to
13 a job that doesn't require a clearance or could possibly be
14 discharged from the military.

15 Q. Because you are required to have a clearance as a 35 Fox?

16 A. Yes, ma'am.

17 Q. So you can't do your job as a 35 Fox without a clearance?

18 A. That's correct.

19 ATC[CPT OVERGAARD]: No further questions, thank you.

20 MJ: Redirect?

21 CDC[MR. COOMBS]: Yes, Your Honor.

22

23

REDIRECT EXAMINATION

Questions by the civilian defense counsel [MR. COOMBS]:

A. It's not, sir. It's dependent on the commander, there's a section commander recommends course of action.

A. Yes, that is one, sir.

A. Yes, sir.

A. Without going into too much detail on what the Soldier did?

A. One was improper relations with a member of a foreign military.

Q. Okay.

Q. All right. So the egregious thing we are talking about is an improper relationship and perhaps a problem with alcohol?

A. Yes, sir.

1 CDC[MR. COOMBS]: Thank you.

2 ATC[CPT OVERGAARD]: I just have one follow-up question, ma'am,
3 to clarify.

4 MJ: Go ahead.

5 **CROSS-EXAMINATION**

6 **Questions by the assistant trial counsel [CPT OVERGAARD]:**

7 Q. It was an egregious relationship with a foreign national
8 that was the concern, right?

9 A. Yes. That individual was also a member of that military.

10 ATC[CPT OVERGAARD]: Thank you.

11 **[The witness was temporarily excused, duly warned, and withdrew from**
12 **the courtroom.]**

13 MJ: Are you ready to proceed with the next witness or do you
14 want a brief recess?

15 CDC[MR. COOMBS]: I would like to take a 15-minute recess,
16 Your Honor, because I need to set up a few things for the next
17 witness.

18 MJ: All right. Any objection?

19 TC: No, ma'am.

20 MJ: Court is in recess until 11:15.

21 **[The court-martial recessed at 1101, 13 August 2013.]**

22 **[The court-martial was called to order at 1119, 13 August 2013.]**

1 MJ: Court is called to order. Let the record all parties
2 present when the court last recessed are not present. Major Fein,
3 account for the parties, please.

4 TC[MAJ FEIN]: Yes, ma'am. Captain von Elten is absent.
5 Captain Morrow is present. Otherwise, all parties are present.

6 MJ: Thank you. Mr. Coombs.

7 CDC[MR. COOMBS]: Yes, Your Honor. The defense calls Mr. Paul
8 Adkins.

9 PAUL ADKINS, civilian, was recalled as a witness for the defense,
10 reminded he was still under oath, and testified as follows:

11 DIRECT EXAMINATION

12 Questions by the civilian defense counsel [MR. COOMBS]:

13 Q. I'm handing you what has been marked as Defense Exhibit
14 Romeo-Romeo-Romeo for Identification. Please, if you would, just
15 take a look at that. Flip both pages. When you're done looking at
16 that, just look up at me.

17 A. Okay, sir.

18 [There was a brief pause while the witness reviewed the exhibit.]

19 Q. Really what I'm asking is whether or not you recognize it.
20 You don't need to read the whole thing, if you recognize it?

21 A. I recognize the signature. I don't 100 percent recognize -
22 - remember writing up the counseling statement, but it must have been
23 me because that's my signature, sir.

1 Q. Looking at this now, then do you recognize who this
2 counseling is for?

3 A. Yes. It's for me.

4 Q. Who is counseling you?

5 A. Captain Lim.

6 Q. And do you recall why he was counseling you?

7 A. Yes.

8 Q. And why was he counseling you?

9 A. Because I didn't bring to anyone's attention an email that
10 PFC Manning sent me earlier on.

11 CDC[MR. COOMBS]: I'm Retrieving Defense Exhibit RRR for
12 Identification and handing the witness Defense QQQ for
13 Identification.

14 Q. Again, you don't need to read the Defense Exhibit, but I
15 want you to glance at it and when you're doing looking at it, just
16 look up at me.

17 **[There was a brief pause while the witness reviewed the exhibit.]**

18 A. Yes, sir.

19 Q. Do you recognize Defense Exhibit QQQ for Identification?

20 A. Yes, sir.

21 Q. And how do you recognize it?

22 A. It's an email sent to me, sir. And that I sent to Captain
23 Lim.

1 Q. When did you receive this -- Well actually, who did you
2 receive this email from?

3 A. PFC Manning.

4 Q. And when did you receive the email?

5 A. 24 April, sir.

6 Q. And when did you inform Captain Lim about PFC Manning's
7 email?

8 A. 3 June, sir.

9 Q. Let's talk about the email you received. What was the
10 subject line of the email?

11 A. "My problem", sir.

12 Q. That was the subject line, "My problem"?

13 A. Yes, sir.

14 Q. And did you read the email when you received it?

15 A. I was more concentrating on the photo.

16 Q. We'll talk about the photo in a moment. Did you read the
17 content of the email?

18 A. I'm pretty sure I did, sir.

19 Q. And you indicated there was a photo. There was a photo
20 attached to the email?

21 A. Yes, sir.

22 Q. And did you look at that photo?

23 A. Yes.

1 Q. And do you see that photo within Defense Exhibit QQQ for
2 Identification?

3 A. Yes, sir.

4 CDC[MR. COOMBS]: I'm retrieving Defense Exhibit QQQ for
5 Identification and offer it into evidence as Defense Exhibit QQQ.

6 MJ: Any objection?

7 ATC [CPT OVERGAARD]: No, ma'am.

8 MJ: Defense Exhibit QQQ is admitted.

9 CDC[MR. COOMBS]: Permission to publish, ma'am?

10 MJ: Proceed.

11 **[There was a brief pause while the civilian defense counsel published**
12 **Defense Exhibit QQQ to the witness and the Court.]**

13 **Questions continued by the civilian defense counsel [MR. COOMBS]:**

14 CDC[MR. COOMBS]: What I'm going to do, I'm also going to hand
15 you a copy of the same exhibit just so you have a copy in front of
16 you so you can see it clearly. Let's discuss this email.

17 Q. You indicate that PFC Manning sent this email to you on 24
18 April. Is that correct?

19 A. Yes, sir.

20 Q. And when he indicated "My problem", did you understand from
21 the subject line what he was referring to?

22 A. Not necessarily, no.

1 Q. And then you indicated that apparently you looked at the
2 photo, but you believed you read the email as well?

3 A. Yeah, I believe so, sir.

4 Q. And let's talk about the photograph real fast.

5 A. Okay, sir.

6 Q. Can you turn to the page. Is this the photograph that you
7 received?

8 A. Yes, sir.

9 Q. And did you recognize who was in the photograph?

10 A. Yes, sir.

11 Q. And who did you recognize that to be?

12 A. PFC Manning, sir.

13 Q. And what did you recognize him to be wearing at the time?

14 A. A wig and like makeup or something like that, sir.

15 Q. Would you agree he's dressed as a female?

16 A. Yes, sir.

17 Q. All right. So let's go back now to the email. Now having
18 seen the photograph, what were your initial thoughts when you just
19 looked at the photograph?

20 A. I don't honestly remember my thoughts. What I remember was
21 the need to talk to him and find out why he had sent the email or
22 things along those lines, sir.

1 Q. All right. How did you then after seeing the photograph
2 interpret the "My problem" email?

3 A. I wrote on it to speak with him directly, when I received
4 the email. So I wasn't 100 percent sure how I would interpret it.
5 Reading it now I have an interpretation, but then I think I really
6 just wanted to talk to PFC Manning.

7 Q. So based on your memory now you believed that at the time
8 you really weren't interpreting the email you, just realized you
9 needed to speak to PFC Manning based upon the email?

10 A. That's correct.

11 Q. Now, did you -- You eventually shared this email with your
12 immediate supervisor Captain Lim. Is that correct?

13 A. Yes, sir.

14 Q. When did you send the email to Captain Lim?

15 A. 3 June, sir.

16 Q. Why did you wait until 3 June to inform your commander
17 about this email, or excuse me, your S-2 about this email?

18 A. I was concerned initially when I received the email that
19 had I forwarded it to the S-2 or whoever, that it would be
20 disseminated among the brigade staff or HHC or something like that.
21 And I really didn't think at the time that having a picture floating
22 around of one of my Soldiers in drag was in the best interests of the
23 mission, the Intel mission, sir.

1 CDC[MR. COOMBS]: I'm retrieving a copy of exhibit. I'm
2 handing the witness Defense Exhibit Romeo-Romeo-Romeo for
3 Identification again.

4 Q. Let's go back to Defense Exhibit Romeo-Romeo-Romeo for
5 Identification. This was the written counseling by Captain Lim to
6 you?

7 A. Yes, sir.

8 Q. Captain Lim was your immediate supervisor?

9 A. Yes, sir.

10 Q. And this was a negative counseling?

11 A. Yes, sir.

12 Q. And this counseling was based upon your delay of reporting
13 the "My problem" email to Captain Lim?

14 A. Yes, sir.

15 CDC[MR. COOMBS]: Your Honor, the defense moves into evidence
16 Defense Exhibit Romeo-Romeo-Romeo for Identification as Defense
17 Exhibit Romeo-Romeo-Romeo.

18 MJ: Any objection?

19 ATC [CPT OVERGAARD]: No, Ma'am.

20 MJ: Defense Exhibit Romeo-Romeo-Romeo is admitted.

21 CDC[MR. COOMBS]: Permission to publish?

22 MJ: Proceed.

1 [There was a brief pause while the civilian defense counsel published
2 the exhibit to the witness and the Court.]

3 CDC[MR. COOMBS]: Now, this is a little harder to read. I'm
4 going to give you again a copy. I would like to go through the
5 counseling statement with you. I'm handing you a copy of the
6 exhibit.

7 Q. Did Captain Lim inform you of what you should have done
8 after receiving this email in his counseling statement to you?

9 A. I'm sure he did. I mean, yes, I'm sure he did; yes, sir.

10 Q. And did he tell you that you should have immediately
11 reported this to him?

12 A. Yes, sir.

13 Q. And why didn't you report it to him immediately?

14 A. As I said, I thought at the time that it was something that
15 was being handled by his therapist and had I forwarded it, I was
16 concerned that the photo would be disseminated among the staff.

17 Q. Well, did Captain Lim tell you that PFC Manning should have
18 been immediately removed from the T-SCIF based upon this email?

19 A. Can you give me a minute to read the entire thing?

20 Q. Sure.

21 A. Okay. Thanks.

22 [There was a pause while the witness read through the exhibit.]

23 A. Yes, he did say that.

1 Q. I just want to make sure, as I ask these questions, if you
2 don't recall it, you can say I don't recall. Do you recall him
3 telling you that PFC Manning should have been immediately removed
4 from the T-SCIF?

5 A. I mean I don't recall him saying that. As I said, it
6 states this in the counseling 4856, but I don't recall him stating
7 that.

8 Q. Do you recall Captain Lim informing you that PFC Manning
9 should have had his clearance DEROGed immediately?

10 A. I don't recall him stating that.

11 Q. Is that in the counseling statement?

12 A. Could you repeat the question, please, sir.

13 Q. In the counseling statement do you see where Captain Lim
14 says, upon receipt of this email, he should have immediately been
15 informed from the -- excuse me, he should have been immediately
16 removed from the SCIF and his clearance DEROGed.

17 A. Yes, I see that.

18 Q. Followed up by a recommendation for command referral ----

19 A. Yes, I see that.

20 Q. ---- for behavioral health?

21 A. Yes.

22 Q. But you don't recall that ----

23 A. I mean I don't recall it ----

1 Q. ---- today?

2 A. ---- but what I'll say is, during the course of the
3 counseling session, seeing that I did sign it, that I can safely
4 assume that this is what Captain Lim and I discussed, sir.

5 Q. And why didn't you immediately inform the command of a
6 potential DEROG for PFC Manning based upon this email?

7 A. I felt throughout the deployment that Manning's presence as
8 an analyst was important to the mission. And my intent was to make
9 sure, if I could possibly do it, that he could maintain his
10 functionality as an intelligence analyst. I don't remember exactly
11 why I didn't recommend the clearance be removed specifically. But
12 the intent in regards to him staying in the SCIF was, I felt that his
13 presence and his -- what he provided to us as an intelligence section
14 was important enough to retain him.

15 Q. Do you feel that that was your decision to make? Did you
16 feel you, as the master sergeant, could make that decision or did you
17 feel that that was a command decision?

18 A. It was a command decision.

19 Q. So why didn't you inform the command?

20 A. We had a command referred fit for duty evaluation prior to
21 this email, I believe. And he was found to be fit for duty.

1 Q. Not my question, Mr. Adkins. My question was, you felt it
2 was a command decision. Why didn't you inform the command of this
3 email?

4 A. I don't know why, sir.

5 Q. Now in this counseling statement Captain Lim references a
6 memorandum of record that you wrote on 26 April 2010, correct?

7 A. Hold on. Yes.

8 MJ: What was that question?

9 CDC[MR. COOMBS]: In the counseling statement Captain Lim
10 references a memorandum that Master Sergeant Adkins wrote on 26 April
11 2010?

12 WIT: That's correct, sir.

13 Q. And you actually wrote three memorandums for record
14 concerning PFC Manning. Is that correct?

15 A. Yes, sir.

16 Q. And obviously Captain Lim must have been aware of the 26
17 April 2010. At the time of the counseling did you share all three
18 counseling statements with Captain Lim, or excuse me, MFRs with
19 Captain Lim at the time of this counseling statement?

20 A. I don't remember if I shared them at that time. What I
21 think I normally would have done, when Captain Lim assumed the S-2
22 position, I may have showed him the MFRs at that time, but I don't

1 recall that I did. And I can't say for certain during this
2 counseling session that I provided those MFRs to him.

3 CDC[MR. COOMBS]: I'm retrieving a copy of Defense Exhibit --
4 returning Defense Exhibit Romeo-Romeo-Romeo and Defense Exhibit QQQ
5 to the court reporter. I'm handing the witness Defense Exhibit XX.

6 Q. XX is a Memorandum For Record that you wrote on 21 December
7 2009?

8 A. Yes, sir.

9 Q. Do you see your signature on that Memorandum for Record?

10 A. Yes, sir.

11 Q. Why did you write this Memorandum for Record?

12 A. I wrote it to ensure that PFC Manning's therapist was
13 receiving additional information in regards to his behavior.

14 Q. How did you know the information that's contained within
15 the Memorandum for Record?

16 A. I either witnessed it or it was told to me.

17 Q. Did you share this Memorandum for Record with your chain of
18 command at the time you wrote it?

19 A. I don't recall if I did. I imagine -- I can't say for
20 certain. I believe that I did share it with the S-2, but I can't be
21 100 percent certain, sir.

22 Q. If you shared it with S-2, that would have been Major
23 Clausen?

1 A. On 21 December, I believe so, yes.

2 CDC[MR. COOMBS]: I'm retrieving Defense Exhibit XX from the
3 witness. Permission to publish, ma'am.

4 MJ: Proceed.

5 **[There was a brief pause while the civilian defense counsel published**
6 **the exhibit to the witness and the Court.]**

7 Q. We are going to go through a few of the paragraphs in this
8 memorandum. Let's look at Paragraph 1. In Paragraph 1 you indicate
9 you discussed what you believed to be instances of mental instability
10 by then Specialist Manning. Why did you believe PFC Manning, his
11 instability seemed to heighten since November 2009? You see where
12 you say that?

13 A. Are you asking ----

14 Q. I'm just asking you, why did you believe that his
15 instability, to the extent that you believe he had some, seemed to
16 heighten since November 2009?

17 A. I don't know if I stated specifically in the memorandum,
18 but looking back I think I would have presumed it was due to the
19 increased stress of deployment or something like that, sir.

20 Q. If you had that belief that you believed he was showing
21 instances of mental instability, and that was heightening since
22 November 2009, why didn't you remove PFC Manning from the SCIF?

1 A. Because, one, I was getting him therapy at the combat
2 stress; two, we needed analysts to assess the threat and I wanted to
3 make sure that we had enough Soldiers to conduct our mission.

4 Q. Look at Paragraph 2. Paragraph 2 you discuss an incident
5 involving then Specialist Manning that occurred in the either June or
6 July 2009 timeframe. Do you recall that incident that you reference
7 in Paragraph 2?

8 A. Yes, sir.

9 Q. What do you recall about that incident?

10 A. What was written here, that he was being counseled for,
11 verbally counseled for missing formation and he started screaming and
12 then he calmed down. And we talked about him going to seek behavior
13 health.

14 Q. And when you say "started screaming", what do you recall
15 happening?

16 A. He sort of tensed up and clenched his fist. And just -- I
17 mean it was like two or three yells or something like that. And then
18 he stopped.

19 Q. Where was this at?

20 A. This was behind the company -- near our PT formation.

21 Q. And I take it you were present?

22 A. Yes, sir.

23 Q. Who else was present?

1 A. I believe it was Specialist Showman.

2 Q. Did anyone else see the incident?

3 A. I can't recall.

4 Q. Based upon this incident, did you inform the S-2 at the
5 time, Major Clausen, about it?

6 A. I may have. I don't -- I don't recall speaking with him
7 directly about it. But I feel confident that I discussed all
8 personnel issues with the S-2 pretty much on a daily basis. So this
9 certainly would have been something I think I would have discussed
10 with him.

11 Q. And if you discussed it with him, did you also report the
12 incident to your company commander Major Juric [phonetic] or your
13 first sergeant?

14 A. I don't recall if I discussed it with them or not.

15 Q. In Paragraph 3 you state that you decided to deploy PFC
16 Manning given manpower issues?

17 A. Yes, sir.

18 Q. What manpower issues did you have?

19 A. We were a little short I believe on the MTOE. And
20 additionally, we had another Soldier who had recently had a heart
21 attack, who was staying behind as Rear-D. And so I did not assess
22 that we could get away with having two Soldiers on Rear-D.

1 Especially with, you know, like a non-physical health issue. So it
2 was -- that was the reason.

3 Q. Did you feel pressure to deploy PFC Manning?

4 A. I would say there was not necessarily direct but more of an
5 indirect pressure knowing how -- how the unit wanted to make sure
6 that everyone who could possibly deploy would deploy. So I would say
7 there was indirect pressure of making sure that anyone who could
8 physically deploy was deploying. I would say that that was pressure.
9 Also, I understood, at least I recall knowing that I had seen the
10 manning roster of the unit that we were replacing and knowing that we
11 had other manpower allocations that would be taken from our shop. I
12 felt the need to deploy him. And I mean I have some -- in a perfect
13 world I think if I could have left him back to make sure that he was
14 getting behavioral healthcare on a consistent basis, I would have.
15 But I also felt that his issue would not have warranted him remaining
16 CONUS, when we already had another Soldier who was remaining there
17 because of health issues, sir.

18 Q. Did you discuss this issue and your concerns with the
19 company commander?

20 A. I don't know if I did. I know I discussed it with the S-2,
21 but I don't know -- I don't recall if I discussed it with the first
22 sergeant or the commander.

1 Q. And you would agree with me that decision who deploys is a
2 command decision?

3 A. Yeah, it is.

4 Q. And you indicated that you might have spoken with the S-2
5 Major Clausen about your concerns?

6 A. No. I might have spoken with the company commander or the
7 first sergeant. But, again, I feel confident that I kept Major
8 Clausen and Captain Lim and whomever my S-2 was, I kept them, I think
9 pretty much fully informed on personnel issues of any of our
10 Soldiers. So I feel confident that we discussed it.

11 Q. All right. Just so I understand your testimony then.
12 You're confident that you would have discussed your concerns with the
13 S-2, Major Clausen?

14 A. That's correct.

15 Q. And you might have discussed your concerns with first
16 sergeant or company commander?

17 A. I may have. I just don't recall that conversation, sir.

18 Q. All right. Let's look at Paragraph 5. Paragraph 5 you
19 indicate that you had an incident involving PFC Manning losing his
20 room key. Was this during the deployment?

21 A. Yes, sir.

22 Q. And you were counseling him on this issue apparently?

1 A. Yeah, I was counseling him because it was -- the counseling
2 form was a prerequisite for a Soldier who lost his key to be reissued
3 a room key.

4 Q. Why were you counseling him as opposed to maybe his
5 immediate supervisor?

6 A. I don't remember the specifics of the counseling session.
7 I don't remember if it -- if I -- I know obviously from the
8 memorandum that I was present. I don't know if his first line
9 supervisor was there. So I don't recall all the specifics of the
10 session. I don't recall writing up the 4856. I think that's
11 something that normally I would have left to the first line
12 supervisor. But apparently I was there at the session.

13 Q. So sitting here today, do you recall when you wrote in here
14 that during the counseling session that Specialist Manning shoved a
15 chair and began to yell and that you took him outside to calm him
16 down?

17 A. I mean I remember the incident vaguely. In this writing --
18 reading this I don't necessarily recollect the incident any better.
19 But I do vaguely remember that, sir, yes.

20 Q. All right. Let's look at Paragraph 6. When did you find
21 out about the 20 December 2009, counseling session between Specialist
22 Padgett and PFC Manning?

1 A. Probably the next morning. I'm not sure if it was the 20th
2 or 21st, when I came in, whenever that was.

3 Q. What were you told happened?

4 A. Pretty much what's written here, that there was a
5 counseling session regarding punctuality, and he began yelling and
6 flipping a chair and someone had to restrain him.

7 Q. Do you know why a Soldier had to restrain him?

8 A. Because he was like flipping furniture.

9 Q. Were you ever informed that the Soldier that restrained him
10 believed that PFC Manning might have been going for a weapon?

11 A. What I had been told was, and this is just what I recall,
12 was that during the incident PFC Manning was like throwing -- I know
13 he threw the table, and what I recall is, PFC Manning turned towards
14 the weapons rack. Because it, from what I recall the Soldiers -- it
15 looked like he wanted to break something. Looked like he wanted to
16 throw something. And he turned to the weapons rack, at least this
17 was how it was described to me, and then turned away as if there's
18 nothing there that I want to break. So I was under the impression
19 that he was not going for a weapon, but just something physical to
20 break. That was my impression after I discussed it with, I believe
21 it was Mr. Ehresman and Sergeant Padgett.

22 Q. You state in Paragraph 6 that you removed the bolt from PFC
23 Manning's weapon. Why did you do that?

1 A. I wasn't 100 percent sure of his stability and I wanted to
2 send him a message that behavior like that, you know, was not -- not
3 acceptable.

4 Q. Did you alert the command to this incident?

5 A. I don't know if I did or not. I know at some point I
6 talked with the first sergeant and the commander, but I don't recall
7 when I did during the deployment, sir.

8 Q. After this incident why didn't you remove PFC Manning from
9 the SCIF?

10 A. I still felt that with therapy and I still felt that he was
11 providing valuable information and intelligence in regards to the
12 threat he was assigned to analyze, sir.

13 Q. Apparently based upon your answer you didn't feel the need
14 to do DEROG either?

15 A. I did not do a DEROG, no.

16 Q. Did you feel the need to notify the command to have them
17 initiate a DEROG?

18 A. Again, I don't remember when I spoke with the command on
19 this -- in regards to PFC Manning. So I can't say exactly. But no
20 DEROG was initiated, correct.

21 Q. Let's look at Paragraph 7. Paragraph 7 you reference
22 several in-depth conversations with PFC Manning. How many did you
23 have?

1 A. I don't remember exactly. And I don't know when I had
2 them, but probably at least, I mean the word several implies at least
3 three, sir.

4 Q. Do you recall what you talked about?

5 A. Not exactly. I think one of the discussions had to do with
6 a package that he got sent from home. I think it was earlier
7 referenced in the memorandum. And how he had some family problems
8 and wouldn't open the present that he received from home. So the in-
9 depth conversations I don't know exactly when they occurred, if they
10 occurred before and during the deployment or not. So -- And I can't
11 put an exact number on it.

12 Q. Was anyone else present during these conversations that you
13 had with PFC Manning?

14 A. Probably not. I'm not sure. I don't think so.

15 Q. You state in Paragraph 7, these are your words, that you
16 assess he, he being PFC Manning, is salvageable, if he receives and
17 actively participates in extensive psychological therapy immediately?

18 A. Uh-huh.

19 Q. At least once to twice a week on an indefinite basis.

20 A. Yes, sir.

21 Q. Based upon your assessment why did you feel that he needed
22 extensive psychiatric therapy at that time?

1 A. Just based on my discussions with him, based on -- I mean
2 based on my discussions I thought that he was willing to conduct the
3 missions that were required of him. He was willing to receive
4 therapy, again based on my discussions, and I don't recall exactly
5 all the specifics or really any of the specifics, or very few of
6 them. But based on my hope or faith in therapy, based on my
7 impression that he wanted to conduct the mission and based on the
8 fact that I felt that losing him would be a detriment to our
9 intelligence mission. I think I even lost track of your question,
10 sir.

11 Q. Well, I'll ask another. You indicate that coupled with
12 that apparently therapy that you believed he needed -- he also needed
13 responsive psychiatric evaluations, medication and follow-up
14 adjustments on dosages. And then you go on to diagnose him as
15 suffering from acute post-traumatic stress disorder. Do you have any
16 medical training or mental health training?

17 A. No, sir, I don't.

18 Q. Why would you make, I guess, apparently these diagnoses?

19 A. I have known people in the past who have suffered what was
20 diagnosed as a PTSD from development, I mean, from the domestic
21 instances. The reason I wrote this, I mean obviously I'm not a
22 psychiatrist or psychologist, but what I wanted to give the doctor
23 and, again, based on my limited knowledge, what I wanted to give the

1 doctor was just a, I guess a, a good handle for what I was observing.
2 And based on that and the doctor's therapy sessions, therapeutic
3 sessions he would have a better idea of what was going on. So the
4 intent of this and all memorandums for record was to augment the
5 doctors or the therapists' understanding of PFC Manning. I mean
6 obviously I had no training. It was just a layman's observation
7 based on his behavior, sir.

8 Q. You also indicate in that paragraph that you believed he
9 was extremely guarded concerning certain aspects of his private life.
10 Why did you believe that?

11 A. Is that in Paragraph 7, sir?

12 Q. Paragraph 8.

13 A. Okay. Hold on. Can you please repeat the question, sir?

14 Q. I just wanted to know why you believed he, he being PFC
15 Manning, was extremely guarded concerning certain aspects of his
16 private life and apparently compartmentalized what information he
17 would and would not share with others. What made you come to that
18 conclusion?

19 A. Probably because he said it. I don't recall exactly
20 whether -- I know he told me that he didn't trust therapists, but
21 regarding his private life I would presume that he must have said it,
22 but I don't recall what he said or when he said it or if there had
23 been some other reason I had come to that conclusion, sir.

1 CDC[MR. COOMBS]: I'm handing the witness what has been marked
2 Defense Exhibit Mike-Mike-Mike for Identification. Just take a look
3 at that. When you're done, just look up at me.
4 A. Yes, sir.
5 **[There was a brief pause while the witness reviewed the exhibit.]**
6 Q. You wrote this on 26 April 2010?
7 A. Yes, sir.
8 Q. Do you see your signature on the MFR?
9 A. Yes, sir.
10 Q. Why did you write this MFR?
11 A. It was an additional memorandum for his therapist, sir.
12 Q. Has this memorandum changed in any way since you wrote it?
13 A. Could you please rephrase, sir.
14 Q. Does it look in the same condition as it did at the time
15 that you put your signature on it?
16 A. I guess, sir. I haven't seen it in quite a while.
17 Q. Any reason to doubt that's the memorandum that you signed?
18 A. I don't think so, sir.
19 CDC[MR. COOMBS]: I'm retrieving Defense Exhibit Mike-Mike-
20 Mike for Identification and offering it into evidence.
21 MJ: Any objection?
22 ATC[CPT OVERGAARD]: No objection.
23 CDC[MR. COOMBS]: Permission to publish, ma'am.

1 MJ: Proceed.

2 [There was a brief pause while the civilian defense counsel published
3 the exhibit to the witness and the Court.]

4 Questions continued by the civilian defense counsel [MR. Coombs]:

5 Q. In Paragraph 1 you note what you termed continued instances
6 of mental instability in PFC Manning. Why did you believe there were
7 continued instances of mental instability?

8 A. Why did I believe there were continued incidents? Is that
9 your question, sir?

10 Q. It is my question.

11 A. I guess because they are still going on from December or
12 August or whatever, sir.

13 Q. Well, you also state in that paragraph that events have
14 reemerged and intensified over a period of 2 weeks. What time period
15 are you referring to?

16 A. I don't recall, sir. I mean I'm not sure what I was
17 referring to at the time.

18 Q. You also in that paragraph, according to you, you believe
19 there were frequent catatonic periods and claims of disassociation.
20 What made you believe that?

21 A. The catatonic incidents, if I recall correctly, occurred
22 like during the shift change that he was briefing and he would seem
23 to freeze during the brief and not be able to continue with his, with

1 speaking. And as far as claims of disassociation, if I recall
2 correctly, he spoke to me and stated sometimes he would like lose
3 track of time or something like that. So the catatonic periods I
4 witnessed during shift changes, the dissociative periods he claimed
5 he endured to me.

6 Q. Did you speak with anyone in the chain of command about
7 your observations and concerns with regards to catatonic periods and
8 claims of disassociation?

9 A. I'm certain that I did. I don't know when I spoke with the
10 company commander in regards to his fit for duty evaluation. I
11 believe I shared these memorandums with the S-2. I don't know if I
12 shared them with my company commander or first sergeant or not.

13 Q. If you truly believed that, if that were your opinion, why
14 would you allow PFC Manning to remain in the SCIF, if you really
15 believed that he was having frequent catatonic periods and claims of
16 disassociation?

17 A. I was concerned that if we removed PFC Manning -- first of
18 all, we still had people going out the wire, and we still had people
19 doing missions, and if I recall correctly, the biggest threat to our
20 Soldiers and to our operational environment emerged from the Shia
21 insurgent groups, which PFC Manning helped analyze and helped assess.
22 Had -- again, I felt that his therapy would eventually bear fruit, I
23 certainly hoped that to be the case. And knowing that, if I removed

1 him, I would essentially, in large part, eliminate the fusion portion
2 of fusion analysis for the Shia insurgency. I felt that he was still
3 producing products that were allowing us to neutralize the Shia
4 threat.

5 Q. Paragraph 5 you state, "You're unsure at this time if he
6 presents a threat to himself, though he does not seem to be in danger
7 currently in my estimation. His instability is a constant source of
8 concern, however, due to his inherently fluid nature."

9 A. Yes, sir.

10 Q. Believing that why wouldn't you at that point remove him
11 from the SCIF?

12 A. Again, his products were satisfactory. There was still a
13 threat. And removing him would have taken my second Shia analyst,
14 who was on days with Mr. Balonek, over to nights. And essentially
15 would have, in my estimation, reduced our abilities to analyze and
16 assess the biggest threat by a third. So that was probably my
17 reasoning, sir.

18 Q. What do you mean when you say his instability is a constant
19 source of concern; however, due to its inherently fluid nature. What
20 does that mean?

21 A. I think it had to do with his erratic behavior maybe. I
22 can't 100 percent say now what I meant, but it likely had to do with
23 his behavior being erratic, sir.

1 Q. All right. Let's look at Paragraph 8. All right. Looking
2 at Paragraph 8. Just read that to yourself. When you're done, let
3 me know.

4 **[There was a brief pause while the witness read the paragraph.]**

5 A. Okay, sir.

6 Q. What did you mean -- What did you base your opinion, more
7 accurately, when you say, "PFC Manning's conduct was systematic of a
8 deeper medical condition unknown at this time"?

9 A. What I meant was, there's something wrong that's been
10 identified that it happened, at least this is what I think, there's
11 something wrong with him that I wanted the doctor to understand that
12 there may be something a little bit more in-depth going on than maybe
13 some garden variety stress or something like that, sir.

14 Q. Well, you reference in Paragraph 9 the "My problem" email
15 that you received, correct?

16 A. Yes, sir.

17 Q. So why didn't you discuss the content of the email and
18 perhaps that was the deeper medical condition?

19 A. Can you go down, please sir, to the bottom of the signature
20 block. I don't recall -- can you go all the way. Okay. Thanks. I
21 don't recall at the time whether I provided that email to the doctor
22 or not.

1 Q. But my question is, why wouldn't you say to the doctor that
2 the deeper medical condition appears to be based upon "My problem"
3 email something he's been struggling with his entire life. Why
4 wouldn't you reference that to the doctor?

5 A. I don't know, sir. I mean I really was -- The intent of
6 the memorandums was to give him, the doctor an idea what was going
7 on. I may have omitted that. I may have given the doctor the
8 emails. I don't recall. So, I can't answer that at this point, sir,
9 I don't know.

10 Q. And based upon the counseling statement we know that you
11 don't reference the "My problem" email with Captain Lim at this time,
12 correct?

13 A. That's right, yes.

14 Q. Did you reference this memorandum with Captain Lim at that
15 time?

16 A. I don't know. I thought I would have, but I can't recall
17 exactly, sir.

18 Q. Did you reference this memorandum with your first sergeant
19 or company commander?

20 A. I, again, I may have, but I don't recall exactly, sir.

21 CDC[MR. COOMBS]: I'm handing the witness what's been marked
22 as Defense Exhibit NNN for Identification. I'm removing Defense

1 Exhibit NNN from the overhead. Take a moment to thumb through those
2 two pages. When you're done, look up at me.

3 **[There was a brief pause while the witness reviewed the exhibit.]**

4 A. Okay, sir.

5 Q. You wrote this MFR on 8 May 2010?

6 A. Yes, sir.

7 Q. Do you see your signature on this Memorandum for Record?

8 A. Yes, sir.

9 Q. And why did you write this Memorandum for Record?

10 A. Again it was just to inform his therapist of recent
11 instances of behavior.

12 Q. Has this memorandum changed in any way since you put your
13 signature on it?

14 A. Again, I haven't seen it in a while, but I assume it's the
15 same, sir.

16 Q. Any reason to doubt that?

17 A. Not that I know.

18 CDC[MR. COOMBS]: Your Honor, the defense moves into evidence
19 Defense Exhibit NNN for Identification as Defense Exhibit NNN.

20 MJ: Any objection?

21 ATC [CPT OVERGAARD]: No, ma'am.

22 MJ: Defense Exhibit NNN is admitted.

23 CDC[MR. COOMBS]: Permission to publish.

1 MJ: Proceed.

2 [There was a brief pause while the civilian defense counsel published
3 the exhibit to the witness and the Court.]

4 Questions continued by the defense counsel [MR. COOMBS]:

5 Q. Let's talk about Paragraph 2. In Paragraph 2 you write
6 about finding PFC Manning sitting on the floor in the storage room.
7 Is that correct?

8 A. Yes, sir.

9 Q. And where was the storage room?

10 A. It was in the T-SCIF.

11 Q. How far away from the workstation, say, was the storage
12 room from PFC Manning's workstation?

13 A. Could you repeat the question, please.

14 Q. Yes. How far away from PFC Manning's workstation was the
15 storage room?

16 A. 20 feet, something like that.

17 Q. And how did you find out that PFC Manning was in the
18 storage room sitting on the floor?

19 A. Someone told me that he was.

20 Q. And when they told you that, what did you do?

21 A. I went in and checked on him.

22 Q. When you walked in, what did you see?

23 A. He was sitting on the floor in a fetal position.

1 Q. What do you mean by "fetal position"?

2 A. If I recall correctly, he was seated on the floor with like
3 his knees tucked up. And I can't remember if his arms were around
4 his legs or not. Something like that.

5 Q. When you say his knees tucked up, do you mean his knees
6 tucked up to his chest?

7 A. Yes, sir.

8 Q. What was PFC Manning doing, when you walked in?

9 A. It says here that I had noticed he was clutching his head
10 as though he was in pain.

11 Q. Did you speak to him at the moment you walked in?

12 A. I'm sure I did. I don't recall what I said. It was
13 probably something along the lines of are you all right, or something
14 like that.

15 Q. And did PFC Manning immediately respond to you?

16 A. Eventually, yes. In Paragraph 4 it shows that he
17 responded.

18 Q. Did he immediately respond to you?

19 A. No.

20 Q. And you write about seeing a Gerber knife at PFC Manning's
21 feet. Is that correct?

22 A. Yes, sir.

23 Q. And how large was that knife?

1 A. I mean, a Gerber knife, it's usually about, I don't know,
2 two-inch blade or something like that, three inches.

3 Q. Was the knife opened; was the blade visible?

4 A. Yes.

5 Q. Was PFC Manning holding the knife or was it on the floor,
6 when you walked in?

7 A. When I walked in, I'm not sure, but when I observed it, it
8 was at his feet. So I assume he was not holding it based on what I
9 wrote.

10 Q. And you noted in the memorandum that he had carved the
11 words "I want" into the chair. Is that correct?

12 A. Yes, sir.

13 Q. Did you actually see those words?

14 A. I think I did, yes.

15 Q. And how did you know that he carved those words into the
16 chair?

17 A. I guess we discussed it and he said he didn't know why he
18 etched them, but I ----

19 Q. Do you recall seeing several pieces of the chair, the vinyl
20 top on the floor?

21 A. They were somewhere, yes, but they were cut, yes.

22 Q. Did you ask PFC Manning why he carved the words "I want"
23 into the chair?

1 A. I don't know if I asked him that or not. I don't recall
2 the exact like details of the conversation, sir.

3 Q. You indicate in the MFR that you spoke with him for over an
4 hour, or about an hour. Is that right?

5 A. Could you move down, please, so I can see. I'm not sure
6 where you are referring, sir.

7 Q. Sure.

8 A. I don't know where it says I talked to him for an hour.

9 Q. I'll hand you a copy of the exhibit. It's on Page 2. I'll
10 turn it to Page 2 for you. See on Page 2 where you say, after an
11 hour you were called to work and had to leave Specialist Manning?

12 A. Yes, sir, I see it.

13 Q. All right. So you talked to him for about an hour?

14 A. I was in there for about an hour. According to this, yes.
15 Whether I was talking to him the entire time, I don't know, but I was
16 present with him.

17 Q. When you did talk to him, what did you guys talk about?

18 A. I guess he told me about how he was feeling and how he felt
19 fragmented.

20 Q. Did you ask him questions like why did you carve those
21 words into the chair?

22 A. I may have. I don't -- I don't recall asking him that
23 specific question, sir, but I mean I may have asked him, yes.

1 Q. Did you ask him why he was on the floor in the storage
2 room?

3 A. I'm sure I asked him what was wrong and over the course of
4 the conversation, you know, I drew out or I learned from him what
5 occurred, I drew out and found whatever is in Paragraphs 4, 5 and 6,
6 sir.

7 Q. How did this conversation end?

8 A. He was calm. And I put him back at his workstation, sir.

9 Q. And why, based upon seeing what you saw, and spending an
10 hour with him, would you ever put him back in his workstation?

11 A. Because, again, I think recently he had been, and I can't
12 state 100 percent sure, but I believe he had missed some work
13 recently or for some reason and there, again, there were tasks to do
14 in regards to analyzing the threat. So I did.

15 Q. Why wouldn't you have taken him to mental health
16 immediately?

17 A. He had been going to mental health several times.

18 Q. But why not at this point, when you find him in the storage
19 room with a knife at his feet, why wouldn't you then take him to
20 mental health immediately?

21 A. I'm not sure, sir. I mean he had been going. I don't know
22 why I didn't take him that night, sir. We did later obviously but
23 not at that time.

1 Q. Right because later that's when he assaulted Specialist
2 Showman?

3 A. Yes, sir.

4 Q. That same shift?

5 A. Yes, sir.

6 Q. Why didn't you immediately go to the S-2 or the company
7 commander to inform them what you saw?

8 A. I can't say, sir. I mean, again, he was in the process of
9 therapy. There was stuff to do. I'm not, you know, exonerating
10 myself for my decision. I don't know exactly what was going through
11 my mind, but for whatever reason I felt that he had calmed down,
12 there had been behaviors before where he would have incidents and he
13 would calm down and be fine. So I wrongly assessed that he was
14 stable enough to conduct his shift.

15 Q. Now you received a General Officer Memorandum of Reprimand,
16 correct?

17 A. Yes, sir.

18 Q. And that GOMOR documented your failure to report to the
19 chain of command various acts of misconduct and inappropriate
20 behavior by PFC Manning?

21 A. I haven't read it in a very long time, but I believe that's
22 what it referred to, yes, sir.

1 Q. And the GOMOR also concluded that this failure was directly
2 related to information that was critical to the commander's
3 determination whether to deploy PFC Manning?

4 A. Can you repeat that, please, sir.

5 Q. Yes. The GOMOR concluded that your failure was directly
6 related to information that was critical to the commander's
7 determination whether to deploy PFC Manning?

8 A. I guess that's what it said. Again, I haven't seen it in a
9 long time, sir.

10 CDC[MR. COOMBS]: I'm removing from the overhead Defense
11 Exhibit NNN. I'm showing the witness what's marked as Defense
12 Exhibit TTT for Identification and retrieving a copy of the previous
13 exhibit from the witness.

14 Q. Do you recognize that?

15 A. Yes, sir, I do.

16 Q. And what is that?

17 A. That's my General Officer Memorandum of Reprimand.

18 Q. In that General Officer Memorandum of Reprimand do you see
19 where the command concluded or excuse me, in the GOMOR they concluded
20 that your failure was directly related to information that was
21 critical to the commander's determination whether to maintain PFC
22 Manning's security clearance?

23 A. Yes, sir, I do.

1 Q. You submitted a rebuttal to this GOMOR?

2 A. Yes, sir, I did.

3 Q. After reviewing your rebuttal, the GOMOR was still filed
4 into your performance record?

5 A. Yes, sir, it was.

6 Q. After receiving the GOMOR you were sent to an
7 Administrative Reduction Board?

8 A. Yes, sir, I was.

9 Q. And that Administrative Reduction Board was convened to
10 determine whether you should be reduced in grade for inefficiency due
11 to your failure to respond appropriately to the various acts of
12 misconduct and inappropriate behavior by PFC Manning?

13 A. That's correct.

14 Q. And you were represented by counsel at that board?

15 A. Yes, sir.

16 Q. Witnesses were called to testify?

17 A. Yes, sir.

18 Q. You presented a defense to your actions?

19 A. Yes, sir.

20 Q. And the board concluded that you were inefficient?

21 A. That's correct, sir.

22 Q. The board concluded that you should be reduced in rank due
23 to your failures?

1 A. Yes, sir.

2 Q. And you were reduced in rank?

3 A. I was.

4 CDC[MR. COOMBS]: I'm retrieving from the witness Defense
5 Exhibit Tango-Tango-Tango for Identification. No further questions.

6 MJ: Cross-examination?

7 ATC[CPT OVERGAARD]: Yes, ma'am.

8 **CROSS-EXAMINATION**

9 **Questions by the assistant trial counsel [CPT OVERGAARD]:**

10 Q. Mr. Adkins, now the counseling statements you just went
11 through with the defense, or the MFRs I should call them, those you
12 prepared to provide to mental health professionals. Is that correct?

13 A. Yes, ma'am.

14 Q. And in those there was a December one that documented a
15 missing formation that occurred in July/June of '09?

16 A. Somewhere around July or August, June, something like that,
17 prior to the deployment.

18 Q. And that would be missing formation is minor misconduct for
19 a junior Soldier?

20 A. It was for PT formation, yes.

21 Q. And PFC Manning had an angry outburst to -- when he was
22 corrected for that behavior?

1 A. It wasn't 100 percent exactly when he was corrected. It
2 was -- He was corrected by Specialist Showman, brought out to report
3 to me. And when Showman and I were discussing the event with PFC
4 Manning, that's when he had his outburst. So he wasn't necessarily
5 at the initial discussion between Showman -- with Specialist Showman
6 and PFC Manning.

7 Q. Okay. And then, again, in that December MFR you documented
8 a room key counseling that you had to do. Is that correct?

9 A. Yes, ma'am.

10 Q. And again, that was minor misconduct?

11 A. Yes.

12 Q. And, again, PFC Manning had an angry outburst in response
13 to your counseling?

14 A. Yes, ma'am.

15 Q. And then in December of '09 you documented that he was
16 counseled for being late a couple of times?

17 A. Yes, ma'am.

18 Q. And as a result from being late and being counseled for his
19 misconduct, he had another angry outburst?

20 A. Yes, ma'am.

21 Q. And that was all in December of 2009?

22 A. You mean the tardiness and the outbursts, the third
23 outburst that you referred to?

1 Q. The room key, the tardiness and the outburst.

2 A. According to the MFR, yes.

3 Q. Okay. And then did PFC Manning go on leave in January of
4 2010?

5 A. I believe so, yes, ma'am.

6 Q. Why did he go on leave in January?

7 A. Normally we would have the junior Soldiers go first. And
8 additionally, I discussed with Major Clausen and others within the
9 shop that I thought it would be good to have PFC Manning go on leave
10 early for a couple reasons; one, to reduce his stress; two, we
11 weren't sure at the time how long we were going to be deployed. So I
12 wanted to make sure that he specifically and a couple of other junior
13 Soldiers went on leave as soon as possible.

14 Q. So you sent him back to recharge his batteries, so-to-
15 speak?

16 A. Yes, ma'am.

17 Q. And then PFC Manning, there's no other documented
18 misconduct until the end of April 2010?

19 A. Yes, ma'am.

20 Q. So after he got back he was recharged?

21 A. I would say, yes, his performance was satisfactory.

22 Q. And then, again, you documented in the MFR that he was
23 having trouble briefing -- he had some erratic behavior?

1 A. Yes.

2 Q. So you wrote that MFR and gave it to his doctor?

3 A. Yes, ma'am.

4 Q. And then, again, at the beginning of May you saw other
5 erratic behavior?

6 A. Yes, ma'am.

7 Q. So again you wrote the MFR and you gave it to his doctor?

8 A. Yes, ma'am.

9 Q. And then on 8 -- And then soon after that, when you talked
10 to him, was it in the closet or in the supply room?

11 A. Yeah, it was a storage room; yes, ma'am.

12 Q. Okay. And soon after that was when he punched Specialist
13 Showman in the face?

14 A. Yes, ma'am.

15 Q. And then he was removed from the SCIF right after that?

16 A. Yes, ma'am.

17 Q. Then he was DEROGed right after that as well?

18 A. I'm not 100 percent sure of all the process or order of
19 when the DEROG was initiated, but he was removed from the SCIF, the
20 locks were changed. We took him to the company to work in supply and
21 told the first sergeant that we did not want him working back in the
22 SCIF again.

1 Q. Now going back to before he deployed. You instructed PFC
2 Manning to see mental health before he deployed, didn't you?

3 A. Yes, ma'am.

4 Q. He ultimately did deploy?

5 A. Yes, ma'am.

6 Q. So he was cleared for duty?

7 A. The initial mental health examination was more of a
8 screening, which helps determine, I guess, what type of treatment the
9 Soldier might need. So the patient was screened, like an inpatient
10 behavior health Soldier, screened PFC Manning. But by the time we --
11 By the time he could get an appointment, I believe it was passed his
12 flight time. So what we decided to do was have him continue his
13 treatment in theater with a combat stress unit that was on the FOB
14 where we were located.

15 Q. So he received an initial screening?

16 A. Yes, ma'am.

17 Q. And would the information from the initial screening go to
18 you or would that go to the company commander?

19 A. It stayed, as far as I know, it stayed in the Behavior
20 Health.

21 MJ: It stayed where?

22 WIT: Behavior Health, ma'am.

1 Q. If there was a reason for PFC Manning not to deploy, would
2 you expect Behavior Health to share that with the company commander?

3 A. At that time, because there was only a screening, I don't
4 know what they would have recommended because it probably was
5 conducted by like a PFC or a specialist. So without him having seen
6 or been treated by a therapist, I'm not certain that Behavior Health
7 would have made that recommendation based on simple screening of the
8 soft Soldier.

9 Q. So your understanding is he just had the screening before?

10 A. Yes, ma'am.

11 Q. But he did receive a fit for duty after you deployed?

12 A. Yes, he did.

13 Q. And he was determined fit for duty?

14 A. That's what the commander and the first sergeant told me,
15 yes.

16 Q. Okay. So the commander and first sergeant would get the
17 fit for duty report?

18 A. Yes, ma'am.

19 Q. And you never saw those reports?

20 A. I did not.

21 Q. Was that a commanded directed evaluation when you got in
22 theater?

1 A. I'm sure it was. I mean, I don't recall the exact --
2 everything that led to the evaluation, but Major Drener, or whoever
3 the commander was. It may have been Captain Freeburg at the time, I
4 don't recall, I think it was Major Drener, would have had to have
5 ordered the fit for duty evaluation.

6 Q. And then PFC Manning, he continued to see Behavior Health
7 throughout the deployment?

8 A. Yes, ma'am.

9 Q. And he continued to be fit for duty throughout the entire
10 deployment?

11 A. According to the doctors, yes, ma'am.

12 Q. And you said before you wrote these MFRs and you are not a
13 psychiatrist or psychologist, but you did it to give PFC Manning's
14 doctors from your perspective situational awareness of what PFC
15 Manning was doing on a daily basis?

16 A. Yes, ma'am. Or when he had an incident, yes.

17 Q. So only when you felt there was incidents that needed to be
18 documented, you reported?

19 A. Yes, ma'am.

20 Q. PFC Manning's NCO support channel in Iraq was Sergeant
21 Padgett or Sergeant Mitchell during the day or night shift. Is that
22 correct? The first-line supervisor, I'm sorry.

1 A. Yes, ma'am. His first line supervisor was Specialist
2 Padgett. He fell operationally under Mr. Balonek, who was then a
3 staff sergeant. Then myself and the first sergeant and sergeant
4 major.

5 Q. Okay. And you did your best to keep the Soldier issues
6 away from Staff Sergeant Balonek?

7 A. Yes.

8 Q. Because he was the master analyst?

9 A. Yes. He was the person who had the best handle on the most
10 active and dangerous threat. And ensuring that he focused primarily
11 on the threat was one of my intents that he could address what the
12 enemy was doing primarily. So I used him as a senior analyst along
13 with Mr. Ehresman, yes, ma'am.

14 Q. So you wanted him to focus on actually engaging the enemy?

15 A. Yes. I wanted them all to. And I felt that Mr. Balonek,
16 being the Chief Shia Analyst, and the Shias being the chief threat to
17 us and to the Iraqis in our sector, I felt that Mr. Balonek's
18 extensive focus on the enemy situation would better serve the unit
19 than having him also work extensively on administrative and Soldiers
20 issues. So primarily it was hoped that I would work a lot with
21 Specialist Padgett in regards to some of the Soldier issues that Mr.
22 Balonek might normally have handled otherwise.

1 Q. And PFC Manning went to you with a lot of his personal
2 issues?

3 A. He came to me several times, yes, ma'am.

4 Q. You were very approachable?

5 A. I guess so.

6 Q. And you tried to help PFC Manning deal with the stresses
7 that he had in a productive way?

8 A. Yes, ma'am.

9 Q. And you thought he was salvageable?

10 A. I did.

11 Q. You thought there was no reason for him not to succeed?

12 A. I thought there was no reason, and this is before I knew
13 everything, but I thought there was no reason that this Soldier, with
14 the help he was receiving, could get through his term of enlistment.
15 And be honorably discharged and carry on with his life. Because it
16 was, I thought it was obvious to him and to myself that the Army, it
17 was a good thing, but the Army isn't for everyone. And so the hope
18 and my intent was, just get through the deployment, you'll come home
19 and start ACAPing and you'll leave the Army and you just move on.

20 Q. And you made assessment based on your experience with other
21 Soldiers?

22 A. Yes, ma'am.

1 Q. You had been able to get other Soldiers that were
2 struggling with being in the Army through their deployments?
3 A. Yes, ma'am.
4 Q. You mentioned that you chose to remove the bolt from PFC
5 Manning's weapon during the deployment?
6 A. Yes, ma'am.
7 Q. Had you had to do with any other Soldiers?
8 A. Yes, ma'am.
9 Q. And have you also had to take other measures such as, you
10 know, having a Soldier sleep in the SCIF to also help maintain order?
11 A. Yes, ma'am.
12 Q. Did you ever have to recommend a Soldier redeploy early due
13 to behavioral or mental health problems?
14 A. Not that I can recall, no.
15 Q. And that would have been a decision more for higher ups to
16 make?
17 A. Yes, ma'am.
18 Q. So your thought was with appropriate guidance, with mental
19 health's assistance, that PFC Manning could fulfill his requirements
20 and he could be a successful Intel Analyst.
21 A. Yes, ma'am.

1 Q. And if a mental health professional in Iraq had told you
2 that PFC Manning had to redeploy, you would have relayed to the first
3 sergeant or to the commander?

4 A. It would have been relayed to the first sergeant or
5 commander likely by the mental health professional.

6 Q. By them directly?

7 A. Right and, you know, he would have just been removed.

8 Q. You said you were focused on the mission, obviously?

9 A. Yes, ma'am.

10 Q. And you were focused on the fact that you needed Shia
11 analysts to actually analyze the threat that was occurring in theater
12 from the group that was presenting the most threat to our troops at
13 that time?

14 A. Yes, ma'am.

15 Q. And without an analyst in PFC Manning's position, you
16 thought that it would eliminate the effective fusion of ideas on the
17 threat?

18 A. Yes, ma'am.

19 Q. So you thought, if you kept the stress level low, that that
20 would also help?

21 A. Yes, ma'am.

22 Q. So you put PFC Manning on night shift?

23 A. Yes, ma'am.

1 Q. And again, you recommended mental health or Behavior
2 Health, and you also recommended that he go to see the chaplain. Is
3 that correct?

4 A. Yes, ma'am.

5 Q. And he did see the chaplain?

6 A. Yes, ma'am.

7 Q. And you also recommended that he keep a journal?

8 A. Yes, ma'am.

9 Q. That he find constructive ways to have an outlet for the
10 stress that he was experiencing?

11 A. Yes, ma'am.

12 Q. And a lot of Soldiers actually went to mental health during
13 the '09/'10 deployment?

14 A. I'm certain. Yes, ma'am.

15 Q. It was more common than your previous deployments?

16 A. It was certainly more common and I think part of the reason
17 was, it was A, it was available within walking distance of where we
18 worked; and B, I think it was more acceptable to go to someone and,
19 you know, discuss problems or stressors with a professional.

20 Q. You encouraged your Soldiers to do that, to deal with
21 stressful situations?

22 A. If they needed to, yes.

1 Q. Your leadership style, you encouraged junior Soldiers to
2 express themselves?

3 A. Yes, ma'am.

4 Q. And that was because to quash or inhibit the free flow of
5 ideas would be contrary to the fusion cells functionality?

6 A. Yes. I mean basically, although rank obviously is
7 important and within the Army, there's no -- no one has a monopoly on
8 good ideas or good assessments, be that a senior noncommissioned
9 officer, a captain, PFC, a specialist or buck sergeant. So one of
10 the things I wanted to ensure was that Soldiers felt that they could
11 respectfully contradict or counter arguments or analysis that was
12 presented by certain personnel in order to make sure that the ideas
13 that people had could be effectively meld into a good solid
14 intelligence product.

15 Q. And that was the crutch of being an Intel Analyst?

16 A. Yes, ma'am.

17 Q. In late April of 2010, when you received the email that the
18 defense was just showing you what the picture of PFC Manning,
19 regardless of his cross dressing on that email, did you still trust
20 him to do his job?

21 A. I did.

22 Q. And why is that?

1 A. Because he was still producing good products. He's still
2 meeting the standards that Mr. Balonek or whoever tasked him, he's
3 meeting the standards to effectively assess and analyze the threat.

4 Q. You didn't believe that just because he sent a photo of
5 cross dressing he was a security threat, did you?

6 A. I didn't necessarily come to that conclusion.

7 Q. You deployed on four separate occasions, correct?

8 A. Yes, ma'am.

9 Q. And in all those deployments you were in a leadership
10 position in an S-2 shop?

11 A. Three of them, yes. In brigade S-2. In the 4th I was in
12 the Combined Joint Intelligence Operations Cell in Bagram,
13 Afghanistan.

14 Q. What was your position there?

15 A. I was the CJ2 Ops NCOIC as sergeant first class.

16 Q. Based on your experience with these four separate
17 deployments, was the '09/'10 deployment, was the OPSEC or physical
18 security practices any different than your previous deployments?

19 A. No, ma'am.

20 Q. Did the deliberate compromise of classified information
21 occur those deployments?

22 A. During my previous deployments?

23 Q. Yes.

INSTRUCTIONS FOR PREPARING AND ARRANGING RECORD OF TRIAL

USE OF FORM - Use this form and MCM, 1984, Appendix 14, will be used by the trial counsel and the reporter as a guide to the preparation of the record of trial in general and special court-martial cases in which a verbatim record is prepared. Air Force uses this form and departmental instructions as a guide to the preparation of the record of trial in general and special court-martial cases in which a summarized record is authorized.

Army and Navy use DD Form 491 for records of trial in general and special court-martial cases in which a summarized record is authorized. Inapplicable words of the printed text will be deleted.

COPIES - See MCM, 1984, RCM 1103(g). The convening authority may direct the preparation of additional copies.

ARRANGEMENT - When forwarded to the appropriate Judge Advocate General or for judge advocate review pursuant to Article 64(a), the record will be arranged and bound with allied papers in the sequence indicated below. Trial counsel is responsible for arranging the record as indicated, except that items 6, 7, and 15e will be inserted by the convening or reviewing authority, as appropriate, and items 10 and 14 will be inserted by either trial counsel or the convening or reviewing authority, whichever has custody of them.

1. Front cover and inside front cover (chronology sheet) of DD Form 490.
2. Judge advocate's review pursuant to Article 64(a), if any.
3. Request of accused for appellate defense counsel, or waiver/withdrawal of appellate rights, if applicable.
4. Briefs of counsel submitted after trial, if any (Article 38(c)).
5. DD Form 494, "Court-Martial Data Sheet."
6. Court-martial orders promulgating the result of trial as to each accused, in 10 copies when the record is verbatim and in 4 copies when it is summarized.
7. When required, signed recommendation of staff judge advocate or legal officer, in duplicate, together with all clemency papers, including clemency recommendations by court members.

8. Matters submitted by the accused pursuant to Article 60 (MCM, 1984, RCM 1105).

9. DD Form 458, "Charge Sheet" (unless included at the point of arraignment in the record).

10. Congressional inquiries and replies, if any.

11. DD Form 457, "Investigating Officer's Report," pursuant to Article 32, if such investigation was conducted, followed by any other papers which accompanied the charges when referred for trial, unless included in the record of trial proper.

12. Advice of staff judge advocate or legal officer, when prepared pursuant to Article 34 or otherwise.

13. Requests by counsel and action of the convening authority taken thereon (e.g., requests concerning delay, witnesses and depositions).

14. Records of former trials.

15. Record of trial in the following order:

- a. Errata sheet, if any.
- b. Index sheet with reverse side containing receipt of accused or defense counsel for copy of record or certificate in lieu of receipt.
- c. Record of proceedings in court, including Article 39(a) sessions, if any.
- d. Authentication sheet, followed by certificate of correction, if any.
- e. Action of convening authority and, if appropriate, action of officer exercising general court-martial jurisdiction.
- f. Exhibits admitted in evidence.
- g. Exhibits not received in evidence. The page of the record of trial where each exhibit was offered and rejected will be noted on the front of each exhibit.
- h. Appellate exhibits, such as proposed instructions, written offers of proof or preliminary evidence (real or documentary), and briefs of counsel submitted at trial.